

register

May 7, 1975—Pages 19799-20052

WEDNESDAY, MAY 7, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 89

Pages 19799-20052

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federal register

Phone 523-5240

Area Code 202



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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14965; 4-3-75

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14965; 4-3-75

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16708; 4-14-75

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National Park Service—

Crater Lake Master Plan; to be held at Klamath Falls, Ore. (open), 5-12-75; at Portland, Ore. (open), 5-13-75; and at Medford, Ore. 5-14-75.

18013; 4-24-75

Golden Gate National Recreation Area Citizens' Advisory Commission, to be held in San Francisco, Calif. (open), 5-17-75.

18198; 4-25-75

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18013; 4-24-75

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17177; 4-17-75

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16735; 4-14-75

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

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18510; 4-28-75

Federal-State Partnership Advisory Sub-panel; to be held at Washington, D.C. (closed), 5-14-75.

17885; 4-23-75

National Council on the Humanities Advisory Committee, to be held in Washington, D.C. (closed), 5-15 and 5-16-75.

18229; 4-25-75

NATIONAL SCIENCE FOUNDATION

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18620; 4-29-75

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18620; 4-29-75

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16371; 4-11-75

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards' Subcommittee on Washington Public Power Supply System WPPSS 1 & 4 to be held in Richland, Wash. (open and closed), 5-16-75.

18621; 4-29-75

PRESIDENTIAL CLEMENCY BOARD

To be held in Washington, D.C. (closed), 5-8 through 5-10-75 and 5-22 through 5-24-75.

18052; 4-24-75

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18514; 4-28-75

Report Coordinating Group (Advisory); to be held at Washington, D.C. (open), 5-12-75.

17889; 4-23-75

SMALL BUSINESS ADMINISTRATION

Oklahoma City District Advisory Council; to be held in Oklahoma City, Oklahoma (open), 5-16-75.

15973; 4-8-75

Agency for International Development—United States National Committee for the Prevention of Marine Pollution; to be held in Washington, D.C. (open), 5-15-75.

17861; 4-23-75

Northwest Atlantic Fisheries Advisory Committee; to be held in Boston, Massachusetts (closed), 5-15-75.

17763; 4-22-75

Overseas Schools Advisory Council, to be held in New York, N.Y. (open with restrictions), 5-12-75.

16858; 4-15-75

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; to be held in Washington, D.C. (open), 5-14-75.

17293; 4-18-75

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

Advisory Committee on Visual Aids to Approach and Landing; to be held in Washington, D.C. (open), 5-14-75.

17194; 4-17-75

TREASURY DEPARTMENT

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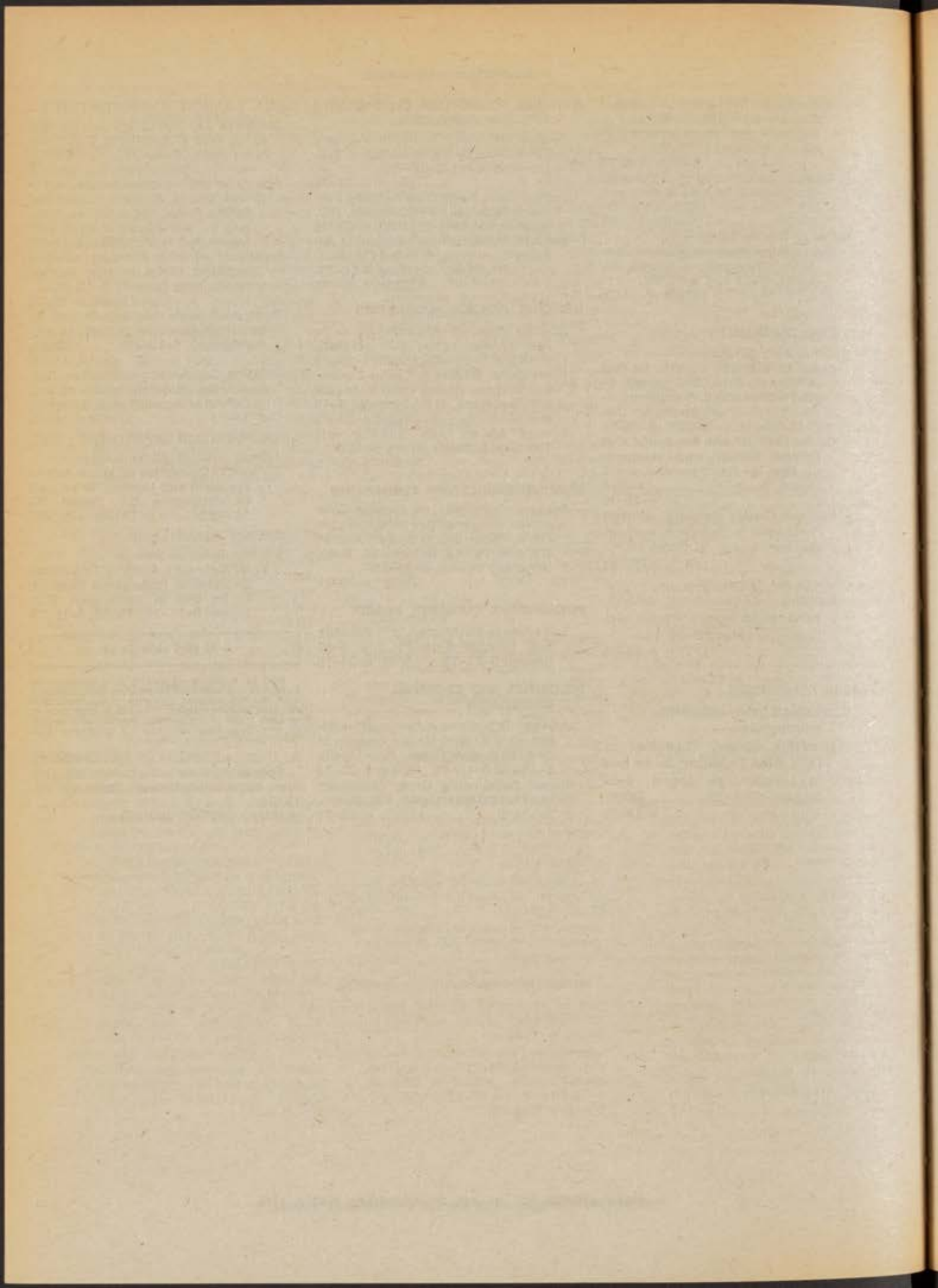
Chief Counsel's Advisory Committee on Rules of Professional Conduct, to be held in Washington, D.C. (open), 5-15-75.

16858; 4-15-75

List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statute citation. The list is kept current in each issue of the Federal Register and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 1310..... Pub. Law 94-20
Special food service program for children, continuation through September 30, 1975
(May 2, 1975; 89 Stat. 82)



rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

Farm Credit Administration

Section 213.3343 is amended to show that the titles of the three Directors of Credit Services are being changed to Deputy Governor to better describe their functions and that a new position of Deputy Governor, Administration is excepted under Schedule C.

On May 7, 1975, § 213.3343(a) is revoked and §§ 213.3343 (b), (c), (d), and (e) are added as set out below.

§ 213.3343 Farm Credit Administration.

- (a) (Revoked)
- (b) Deputy Governor, Credit and Operations.
- (c) Deputy Governor, Finance and Research.
- (d) Deputy Governor, Administration.
- (e) Deputy Governor and General Counsel.

(5 U.S.C. §§ 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 75-11976 Filed 5-6-75; 8:45 am]

Title 10—Energy CHAPTER II—FEDERAL ENERGY ADMINISTRATION PART 213—OIL IMPORT REGULATIONS

Amendments To Conform Oil Import Regulations to Proclamation No. 4370

On April 30, 1975, the President issued Proclamation No. 4370, amending Proclamation No. 3279, as amended, which establishes the Mandatory Oil Import Program. The purpose of the new Proclamation is to defer, on a temporary basis, the increases in supplemental license fees scheduled to take effect on May 1 and June 1, respectively, in order to maintain the Program's flexibility to accommodate evolving alternative programs for discouraging petroleum imports. The Preamble to the Proclamation states that the increases in supplemental fees to \$2 and subsequently to \$3, scheduled to take effect on May 1, and June 1 respectively, will be reimposed within thirty days of their originally scheduled effective dates "should alternative programs for discouraging imports not be formulated in a timely fashion or should such programs fail to protect adequately United States national security interests."

In accordance with the above, Proclamation 3279, as amended, was amended to delete the provisions relating to increases in the supplemental fees to \$2 and \$3. The corresponding authorization for reductions in the fee, scheduled to take effect on May 1 and June 1 with respect to most products, have also been eliminated, while the authorization for the Administrator to reduce the \$1.00 fee to zero has been retained. In addition, a technical change has been made in one of the exemptions from the remaining fee reduction, in order to conform more closely to the Federal Energy Administration's (FEA) Old Oil Allocation Program.

In accordance with the temporary elimination from the Mandatory Oil Import Program of the automatic increases in supplemental license fees, FEA hereby amends retroactive to May 1, 1975 Section 213.35 of its Oil Import Regulations, dealing with allocations and fee-paid licenses. Under this amendment, § 213.35 (d) (1) (i) continues in effect the \$1.00 supplemental fee imposed on all imports entering United States customs territory on or after February 1, 1975. The scheduled increases to \$2.00 on May 1, 1975 and \$3.00 on June 1, 1975, are deleted. § 213.35 (d) (1) (ii) is amended to provide that imports other than (1) ethane, propane, butanes, and asphalt, (2) any material imported for refining that qualifies for inclusion in a refiner's crude oil runs to stills under the Old Oil Allocation Program, and (3) products refined in a refinery outside of the customs territory as to which crude oil runs to stills would qualify a refiner to receive entitlements under the Old Oil Allocation Program, entered on or after February 1, 1975, shall be subject to a supplemental fee of \$0.00/bbl. The provisions for reduced supplemental fees of \$0.60/bbl. in May and \$1.20/bbl. in June and thereafter have been deleted. In addition, § 213.35 (d) (4) is amended to provide that payment of supplemental fees for licenses issued upon prepayment shall be at the rate of \$1.00 with respect to payments made pursuant to § 213.35(d) (1) (i), and that no supplemental fee payments shall be required with respect to imports covered by § 213.35(d) (1) (ii). Overpayments made on the basis of the \$2.00 fee shall be refunded as soon as practicable.

These amendments do not affect the requirements of § 213.35(a) (4) relating to bonds. Thus, licenses issued on or after May 1, 1975 will be subject to existing bonding requirements. That is, bonds must be posted on the outstanding liability of the license, which in the case of some fee-exempt product imports could be zero. However, if fees are increased above the current levels, FEA

anticipates that the bonding requirements in the Proclamation will be revised to permit FEA to require bonds, or increases in bonds, on amounts representing the unused portion of outstanding licenses as of the date of any fee increase.

FEA has concluded that since an emergency exists, the foregoing amendments must be made effective immediately. Presidential Proclamation 4370 deleted the scheduled fee increases to the \$2 and \$3 levels. If FEA were to fail to revise its regulations immediately, the regulations would be in conflict with the Proclamation and uncertainty and confusion as to the actual fees which must be paid could result. In order to avoid the hardships which such uncertainty could cause, and in light of the fact that FEA's discretion is clearly limited by the terms of the Proclamation, these amendments are effective immediately.

The provisions of section 7(i) (1) (B) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), with respect to notice and opportunity to comment are hereby waived upon a finding that strict compliance would seriously injure the public health, safety, and welfare. However, FEA will receive public comments on the amendments issued today. Interested persons are invited to submit written data, views, or argument with respect to these amendments to Executive Communications, Room 3309, Federal Energy Administration, Box DE, The Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Conforming Regulations to Presidential Proclamation No. 4370." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., May 27, 1975, will be considered by the Federal Energy Administration in evaluating the amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

A public hearing on these amendments shall be held, pursuant to section 7(i) (1) (C) of the Federal Energy Administration Act of 1974, no later than forty-five days after issuance at a date and time to be announced in the FEDERAL REGISTER.

The review provisions of section 7(e) (2) of the Federal Energy Administration Act of 1974 which provide for submission of proposed rules for comment

by the Administrator of the Environmental Protection Agency are also hereby waived for a period of 14 days, as provided for in that section, upon a finding that there is an emergency situation which requires immediate action. The basis of this finding is set forth above.

(Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1982, P.L. 87-794, as amended; Proclamation No. 3279, 24 FR 1781, as amended by Proclamation No. 4210, 38 FR 9645, Proclamation No. 4227, 38 FR 16193, Proclamation No. 4317, 38 FR 35103, Proclamation No. 4341, 40 FR 3956, Proclamation No. 4355, 40 FR 10437, and Proclamation No. 4370.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective May 1, 1975.

Issued in Washington, D.C., May 2, 1975.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Section 213.35 is amended by revising subparagraphs (1) and (4) of paragraph (d) as follows:

§ 213.35 Allocations and fee-paid licenses for imports of crude oil, unfinished oils, and finished products.

(d) (1) (i) Except as provided in subparagraph (ii) of this paragraph (d) (1), and except with respect to finished products or unfinished oils as to which a supplemental fee is chargeable on the feedstock from which such finished products or unfinished oils were derived in accordance with clause (i) of subparagraph (9) of paragraph (a) of this section, imports of crude oil, natural gas products, unfinished oils, and all other finished products (except ethane, propane, butanes, and asphalt) entered into United States customs territory on or after February 1, 1975, shall be subject to a supplemental fee per barrel of \$1.00, in accordance with section 3(a) (1) (iii) of Proclamation No. 3279, as amended.

(ii) Imports other than (A) ethane, propane, butanes, and asphalt, (B) any material imported for refining that qualifies for inclusion in a refiner's crude oil runs to stills under the Old Oil Allocation Program, and (C) products refined in a refinery outside of the customs territory as to which crude oil runs to stills would qualify a refiner to receive entitlements under the Old Oil Allocation Program, which enter United States customs territory on or after February 1, 1975, shall be subject to a supplemental fee of \$0.00/bbl.

(4) Payments made pursuant to paragraph (d) (1) (i) of this section for licenses issued upon prepayment by the applicant shall be at the rate of \$1.00 per barrel. No payment shall be required with respect to payments subject to reduction under paragraph (d) (1) (ii) of this section.

[FR Doc. 75-12006 Filed 5-5-75; 8:45 am]

[Ruling 1975-5]

OIL AND GAS RESERVES SURVEY (FORM FEA P-301-S-O)

Treatment of Confidential Information Received by FEA

A number of questions have arisen concerning the treatment of information received by the Federal Energy Administration pursuant to the Oil and Gas Reserves Survey (Form FEA P-301-S-O). That form contains two parts, one of which was to be submitted within 10 days of receipt, and the other of which was to be completed and submitted on or before March 1, 1975. These forms were transmitted to operators of oil and/or gas producing wells, by letter dated December 18, 1974, and notice was given in the FEDERAL REGISTER of January 17, 1975 (40 FR 3041) that such persons were required to file this form.

This ruling is issued pursuant to Subpart A of Part 202, Chapter II of Title 10, Code of Federal Regulations (Production or Disclosure under 5 U.S.C. 552), and is designed to inform those persons and companies submitting survey forms, as well as the general public, as to which items of information obtained pursuant to the Oil and Gas Reserves Survey will be made available in response to requests under the Freedom of Information Act (5 U.S.C. 552), as amended, and Part 202 of the FEA Regulations.

Background. The Oil and Gas Reserves Survey is being conducted pursuant to the authorities contained in the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (Pub. L. 93-319). Section 11 of ESECA states that the information obtained by FEA under authority of ESECA—such as the Oil and Gas Reserves Survey—will be available to the public in accordance with the provisions of the Freedom of Information Act. The Freedom of Information Act requires disclosure of all records not specifically exempted from disclosure; one of these exemptions, however, gives an agency the discretion to decline to release "trade secrets and commercial or financial information obtained from a person and privileged or confidential." That Act also gives the agency discretion to withhold "geological and geophysical information and data (including maps) concerning wells."

As a general matter, agency discretion to release materials that are exempted from the mandatory disclosure provisions of the Freedom of Information Act can be limited by statutes that affirmatively prohibit disclosure. Section 11(d) of ESECA incorporates such an explicit prohibition on disclosure, by providing that the restrictions on disclosure contained in 18 U.S.C. 1905¹ apply to infor-

¹ 18 U.S.C. 1905 prohibits officers and employees of the United States from disclosing in any manner not authorized by law information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to identity, confiden-

mation obtained under ESECA, in certain circumstances. Specifically, these restrictions apply, provided that the person submitting the information first makes a showing that the information, if made public, would divulge methods or processes entitled to protection as trade secrets or other proprietary information. The showing must be satisfactory to the FEA. Section 11(d), in addition to making 18 U.S.C. 1905 applicable only where a satisfactory showing concerning the confidential nature of the information has been made, also makes 18 U.S.C. 1905 inapplicable for purposes of disclosure of information obtained pursuant to ESECA (1) to delegates of the FEA for purposes of carrying out the Emergency Petroleum Allocation Act of 1973 or ESECA, (2) to certain enumerated Federal agencies, and (3) to the Congress or any committee of Congress upon request of the Chairman.

In the transmittal letter for the Oil and Gas Reserves Survey, respondents to the survey were informed that before the restrictions on disclosure contained in 18 U.S.C. 1905 could apply, the respondents would have to make the showing specified in section 11(d) of ESECA. This showing would have to be satisfactory to the FEA.

However, even in the absence of a case-by-case showing, FEA is still free to conclude not to disclose information in response to requests under the Freedom of Information Act, provided it believes that the material is exempt from disclosure under that Act and such disclosure would not be in the public interest. Conversely, however, in the absence of the showing required by Section 11(d), FEA may disclose information which otherwise might fall within the prohibition of 18 U.S.C. 1905.

FEA can, of course, also conclude that the showings made invoking 18 U.S.C. 1905 are not in fact adequate, and that disclosure of the information would not divulge methods or processes entitled to protection as trade secrets or other proprietary information.

Ruling. 1. FEA has concluded that, for purposes of requests received from the public for release of records under the Freedom of Information Act, FEA is permitted by Section 552(b) of the Freedom of Information Act, and appears to be required by 18 U.S.C. 1905, to treat the items listed below as confidential. It will therefore treat as confidential, and not release in response to requests under the Freedom of Information Act, Items 13 to 18 of Part II of Form FEA P-301-S-O:

Average daily productive capacity after December 31, 1974.

Principal constraint on production.

Estimated proved reserves—December 31, 1974 (shut-in reserves).

Principal reason for non-production.

Original hydrocarbons in place.

Estimated proved reserves—December 31, 1974 (producing reserves).

tial statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association.

1974 gross additions to estimated proved reserves.

Indicated secondary and tertiary reserves—December 31, 1974.

Recovery method for secondary and tertiary reserves.

In brief, FEA has concluded that items 13 to 18 of Part II will not be disclosed pursuant to requests under the Freedom of Information Act because they fall within the exemption set out in section 552(b)(4) of that Act for the following reasons: First, industry practice is to retain such information as confidential; second, substantial competitive injury would result from release of such information to the public; and, third, release of such information could seriously impede FEA's ability to obtain such information in the future. In addition, this information may be considered geological or geophysical information, which is exempted from disclosure by 5 U.S.C. 552(b)(9).

The competitive injury which would result from public release of items 13-18 stems from current industry practice of treating as confidential all estimates of future productive capacity and estimated reserves. Release of such information would give prospective purchasers of oil and gas rights information which previously was not available to them and would place them in an improved bargaining position, to the detriment of the survey respondent. Similarly, release of this information would improve the bargaining position of other parties in proposed unitization agreements, to the detriment of the survey respondent.

Information on estimated productive capacity and reserves is also valuable proprietary information in cases where leases are available in the vicinity of the field in question, because this information indicates the likely value of the neighboring leases; release of this information to the public would remove the competitive advantage of the survey respondent and would result in corresponding competitive injury.

Information on secondary and tertiary reserves and recovery methods (item 18) could, in addition, reveal the success of new recovery methods, thereby permitting competitors to avoid the financial risks of experimentation incurred by the survey respondent and giving them a commensurate financial advantage.

2. FEA has further concluded that adequate showings have not been made to invoke the provisions of 18 U.S.C. 1905 with respect to Part I and items 1-12 of Part II and that FEA will disclose, in response to requests made pursuant to the Freedom of Information Act, those items. These include historical data on production of crude oil and natural gas, by field; information as to whether the respondent is or has been an operator; and the number of fields of a specified size in which the respondent operated.

The rationale for concluding that Part I and items 1-12 of Part II will be disclosed pursuant to Freedom of Information Act requests is that this information either is clearly not pro-

prietary—such as name and address—or is information that is already publicly available in a number of states and therefore is not considered to be within the Freedom of Information Act exemption from mandatory disclosure for confidential commercial information. Specifically, the names of operators, the fields that they operate, the operator's parent company, if any, and historical data on production of crude oil and natural gas, are all matters of public record in a number of states.

ROBERT E. MONTGOMERY, JR.,
General Counsel,
Federal Energy Administration.

APRIL 30, 1975.

[FR Doc. 75-12007 Filed 5-5-75; 8:45 am]

Title 12—Banks and Banking CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 75-402]

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Conversions From Mutual to Stock Form

MAY 1, 1975.

Summary. The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full discussion in the following preamble and to the specific provisions of the regulations.

I. PRINCIPAL PROVISIONS REFLECTING CHANGES

A. **Mandatory Priorities in Conversion Plans.** 1. Pure pro rata share.

2. Greater of 100 shares or number of shares equal to ten times pure pro rata share.

B. **Optional Provisions.** 1. Directors, officers and employees may purchase limited priority amount.

2. Public offering provision.

3. Private placement provision.

4. Association members who are not eligible account holders to receive rights to purchase up to 100 shares.

5. Eligible account holders may purchase excess.

6. A limitation of one percent of the total offering may be applied to the amount of stock an eligible account holder may purchase.

C. **Discounts.** Provisions concerning discounts and related holding periods eliminated.

D. **Approvals and Judicial Review.** Preliminary and final approval provisions are consolidated; the present "preliminary" approval becomes final action for purposes of judicial review.

II. OTHER AMENDMENTS

A. Definitions of entitlement shares and subscription offering are amended to conform to amended regulations.

B. Definition of eligible account holder is amended to include only a person having a qualifying deposit.

C. Conforming amendments are made to reflect authority for Federal stock charters.

III. FORMS

A. Amend forms to conform to amended regulations.

B. Redesignate Form PA as Form AC (application for conversion) and delete Form FA.

By Resolution No. 74-1343, dated December 19, 1974, the Federal Home Loan Bank Board proposed to amend Part 563b of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) for the purpose of prescribing certain rules for the conversion of mutual savings and loan associations to the stock form. Notice of such proposed rule making contained in said Resolution No. 74-1343 was duly published in the FR on January 29, 1975 (40 FR 4398), with an invitation for interested persons to submit written comments by February 28, 1975.

On the basis of the Board's consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends said Part 563b as set forth below, effective June 9, 1975.

The above amendment to said Part 563b provides for changes in the mandatory and optional priorities in conversion plans, for the eliminating of discounts in the conversion plans and for the consolidation of the preliminary and final approval provisions of the current regulations. Also various technical amendments, including those necessary to reflect authority for Federal stock charters, to the regulations and forms have been made.

Except for minor editorial changes, §§ 563b.1, 563b.2, 563b.5, 563b.6, 563b.7, 563b.8, Form AC, Form OC and Form FA are adopted as proposed.

The final regulations set forth below differ from the proposed regulations as follows:

(1) Section 563b.3 has been revised to make it mandatory that each eligible account holder must receive rights to purchase (a) entitlement shares in an amount equal to the product obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting insured institution (§ 563b.3(c)(2)) and (b) the greater of 100 shares or 10 times the number of shares the eligible account holder received under (a) (§ 563b.3(c)(3));

(2) Section 563b.3(d) has been revised to include the following optional provisions: (a) shares not sold in the subscription offering may be sold in a private placement providing (i) the maximum number of shares an eligible account holder may subscribe for under § 563b.3(c)(3) shall be the greater of 100 shares or 15 times the number of shares

computed pursuant to § 563b.3(c)(2); and (ii) the plan of conversion contains the optional provision permitting an association member who is not an eligible account holder to purchase up to 100 shares of stock; (b) the number of shares an eligible account holder may subscribe for under § 563b.3(c) whether 10 or 15 times the amount that person is entitled to under § 563b.3(c)(2) may be made subject to a limit of not less than one percent of the total offering. That one percent limit may be made applicable to each eligible account holder as identified by taxpayer identification number or to a group of eligible account holders affiliated with each other or otherwise acting in concert; and (c) that a multiple of less than the 10 or 15 multiples indicated above, may be used with respect to accounts not subject to rate control;

(3) Section 563b.4 has been revised to make it clear that a member of an applicant may submit objections to the Corporation in response to the notice of filing required to be published by § 563b.4 (b). It is noted that such objections will be considered by the Corporation before it acts on a conversion application.

Part 563b of 12 CFR Chapter V is amended as follows:

1. Paragraphs (a) and (c)(1) of § 563b.1 are revised as follows:

§ 563b.1 Scope of part.

(a) *General.* Except as the Corporation may otherwise determine, the provisions of this part shall exclusively govern the conversion of mutual insured institutions to capital stock insured institutions. No such mutual insured institution shall convert to the capital stock form of organization without the prior written approval of the Corporation pursuant to the provisions of this part, except as the Corporation may otherwise provide in supervisory cases.

(c) *Conflicts with State law.* (1) In the event an applicant finds that compliance with any provision of this part would be in conflict with applicable State law, the applicant may file with the Corporation a written request for waiver of compliance with such provision. Such request may be incorporated in the application for conversion; otherwise, the applicant shall file four copies of such request.

2. In § 563b.2(a), subparagraphs (14), (16), and (30) are revised; (32), (33), and (34) are redesignated at (31), (32), and (33) respectively; and (34) is designated as revoked, as follows:

§ 563b.2 Definitions.

(a)

(14) *Eligible account holder.* The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with § 563b.3(e).

(16) *Entitlement shares.* The term "entitlement shares" means the shares of capital stock an eligible account holder

is entitled to purchase determined as computed under § 563b.3(c)(2).

(30) *Subscription offering.* The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (1) eligible account holders as required by § 563b.3(c)(2) and (3); (2) members entitled to vote at the meeting called to consider the conversion as permitted by § 563b.3(d)(7); (3) directors, officers and employees, as permitted by § 563b.3(d)(1); and (4) eligible account holders as permitted by § 563b.3(d)(2) and (4).

(31) *Subsidiary.*

(32) *Supervisory Agent.*

(33) *Underwriter.*

(34) [Revoked; effective June 9, 1975]

3. In § 563b.3, the introductory text of paragraph (b), paragraphs (c) and (d), the introductory text of paragraph (e)(1), paragraph (e)(1)(i), and paragraph (i)(3) are revised as follows:

§ 563b.3 General principles for conversions.

(b) *General requirements.* No application for conversion shall be approved by the Corporation if:

(c) *Required provisions in plan of conversion.* The plan of conversion shall:

(1) Provide that the converting insured institution shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of such stock in the converted insured institution, based on an independent valuation, as provided in § 563b.7.

(2) Provide that each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase entitlement shares in an amount equal to the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting insured institution.

(3) Provide that each eligible account holder shall receive, without payment, additional nontransferable subscription rights to purchase additional shares, subject to paragraphs (d)(4), (d)(5), (d)(6) and the following conditions:

(i) The maximum number of additional shares which an eligible account holder may subscribe for under this paragraph (c)(3) shall be the greater of:

(A) 100 shares; or

(B) Ten times the number of shares computed pursuant to paragraph (c)(2) of this section;

(ii) The number of nontransferable subscription rights to purchase entitlement shares received by an account holder in accordance with paragraph (c)

(2) of this section shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this paragraph (c)(3); and

(iii) In the event of an oversubscription for additional shares pursuant to this paragraph (c)(3), shares shall be allocated among the subscribing eligible account holders as follows:

(A) Any shares not subscribed for in accordance with paragraph (c)(2) of this section shall be allocated among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares allocated in accordance with paragraph (c)(2) of this section) equal to 100 shares.

(B) Any shares not allocated in accordance with paragraph (c)(3)(iii)(A) of this section shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

(4) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with § 563b.7; and specify the underwriting and/or other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

(5) Provide that each savings account holder of the converting insured institution shall receive, without payment, a withdrawable savings account or accounts in the converted insured institution equal in withdrawable amount to the withdrawal value of such account holder's savings account or accounts in the converting insured institution.

(6) Provide for the establishment and maintenance of a liquidation account for the benefit of eligible account holders in the event of a subsequent complete liquidation of the converted insured institution, in accordance with the provisions of paragraph (f) of this section.

(7) Provide for an eligibility record date, which shall be not less than 90 days prior to the date of adoption of the plan by the converting insured institution's board of directors.

(8) Provide that the holders of the capital stock of the converted insured institution shall have exclusive voting rights, unless in the case of a State-chartered converted insured institution State law require savings account holders and/or borrowers of the converted insured institution to have voting rights, in which case the charter of the converted insured institution shall (i) limit such voting rights to the minimum required by State law, and (ii) provide for the management of the converted insured institution to solicit proxies from such savings account holders and/or borrowers in the same manner as it solicits proxies from its shareholders.

(9) Provide that the plan of conversion adopted by the applicant's board of

directors may be substantively amended by such board of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from members to vote on the plan and at any time thereafter with the concurrence of the Corporation; and that the conversion may be terminated by such board of directors at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Corporation.

(10) Provide that all shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the insured institution (by subscription or otherwise) or from an underwriter of such shares, shall be subject to the restriction that such shares shall not be sold for a period of not less than one year following the date of purchase, except in the event of death of the director or officer.

(11) Provide that, in connection with shares of capital stock subject to restriction on sale for a period of time:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of such restriction;

(ii) Appropriate instructions shall be issued to the transfer agent for the converted insured institution's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(iii) Any shares issued as a stock dividend, stock split or otherwise with respect to any such restricted stock shall be subject to the same restriction as may apply to such restricted stock.

(12) Contain no provision which the Corporation shall determine to be inequitable or detrimental to the applicant, its savings account holders or other insured institutions or to be contrary to the public interests.

(d) *Optional provisions in plan of conversion.* The plan of conversion may provide any or all of the following:

(1) That directors, officers, and employees of the converting insured institution, as part of the subscription offering, shall be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders provided for under paragraphs (c) (2) and (3) of this section, subject to the following conditions:

(i) The total number of shares which may be purchased under this subdivision (1) shall not exceed 20 percent of the total number of shares to be issued in the case of a converting insured institution with total assets of less than \$50 million or 10 percent in the case of a converting insured institution with total assets of \$50 million or more; in the case of a converting insured institution with total assets of \$50 million or more but less than \$500 million, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, 15 percent in the case of a converting insured institution with total assets of approximately \$275 million); and

(ii) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service, compensation and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person or group of affiliated persons or group of persons acting in concert.

(2) That each eligible account holder, as part of the subscription offering, shall also receive, without payment, nontransferable subscription rights to purchase additional shares of capital stock, to the extent that such shares are available after satisfying the subscriptions provided for under paragraphs (c) (2) and (3) of this section, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for such additional shares, the shares available shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion. Where possible such additional shares shall be allocated in such a manner that total purchases by eligible account holders shall be rounded up to the nearest 100 shares.

(3) That any shares of the converting insured institution not sold in the subscription offering shall be sold in a public offering subject to such conditions as may be provided in the plan of conversion.

(4) That any shares of the converting insured institution not sold in the subscription offering shall be sold in a private distribution, subject to such requirements as may be provided in the plan of conversion and to the following conditions:

(i) That the maximum number of additional shares which an eligible account holder may subscribe for under paragraph (c) (3) shall be the greater of:

(A) 100 shares; or
(B) Fifteen times the number of shares computed pursuant to paragraph (c) (2) of this section; and

(ii) That the plan of conversion contain the provisions permitted by paragraph (d) (7) of this section.

(5) That the number of shares which an eligible account holder may subscribe for under paragraph (c) (3) of this section may be made subject to a limit of not less than one percent of the total offering of shares for each eligible account holder, or eligible account holders having the same taxpayer identification number, or group of eligible account holders affiliated with each other or otherwise acting in concert.

(6) That a lesser multiple may be used in computing the maximum number of shares for which an eligible account holder may subscribe for under paragraph (c) (3) of this section with respect to certificate accounts for which no maximum rate of return is prescribed pursuant to § 526.5-1 of this Chapter.

(7) That association members who are not eligible account holders shall receive, without payment, nontransferable

subscription rights to purchase up to 100 shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders provided for under paragraphs (c) (2) and (3) of this section. In the event of an oversubscription for shares under the provisions of this paragraph (d) (7), the shares available shall be allocated among the subscribing members on such equitable basis as may be provided in the plan of conversion.

(8) That any person exercising subscription rights to purchase entitlement or additional shares shall be required to purchase a minimum of up to 25 shares to the extent such shares are available (but the aggregate price for any minimum share purchase shall not exceed \$500).

(9) That management employment contracts may be authorized and a qualified stock option plan may be adopted at the meeting at which the plan of conversion is voted upon by the members of the converting insured institution.

(10) That the converted insured institution shall issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock and long-term warrants or other equity securities, in which event any reference in the provisions of this part to capital stock shall apply to such units of equity securities unless the context otherwise requires.

(e) *Determination of amount of qualifying deposit; predecessor and successor accounts.* (1) Unless otherwise provided in the plan of conversion, for the purposes of this section, the amount of the qualifying deposit of an eligible account holder shall be the total of the deposit balances in the eligible account holder's savings accounts in the converting insured institution as of the close of business on the eligibility record date. However, the plan of conversion may provide that any one or more of the following optional provisions shall apply in determining the amount of the qualifying deposit:

(i) Any savings accounts with total deposit balances of less than \$50 (or any lesser amount) shall not constitute a qualifying deposit.

(i)

(3) *Optional charter provision.* To the extent permitted by applicable Federal or State law, a plan of conversion may provide for a provision in the charter of the converted insured institution containing, in substance, the restriction set forth in paragraph (1) (2) of this section. There may also be included a restriction providing that such charter provision may be amended only by a vote of up to 75 percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted insured institution. If the converted insured institution elects to adopt the foregoing optional charter provision, the Corporation will impose, as a condition to its approval of the conversion, a requirement that the

converted institution fully enforce such charter provision.

4. In § 563b.4(a), subparagraphs (1), (2), the introduction of (3), and (3) (i) and (v) are revised, and § 563b.4(b) (1) is revised as follows:

§ 563b.4 Notice of filing; public statements; confidentiality.

(a) *Information prior to approval of plan of conversion.*

(1) An insured institution which is considering converting pursuant to this part and its directors, officers and employees shall maintain such consideration in confidence to the extent consistent with the need to prepare information for filing an application for conversion. If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

(2) Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the insured institution shall:

(i) Notify its members of such action by publishing a statement in a newspaper having general circulation in each community in which an office of the insured institution is located and/or by mailing a letter to each of its members; and

(ii) Have copies of the adopted plan of conversion available for inspection by its members at each office of the insured institution. The insured institution may also issue a press release with respect to such action. Copies of the proposed statement, letter and press release are not required to be filed with the Corporation, but may be submitted for comment to the Office of General Counsel. Copies of the definitive statement, letter and press release shall be filed with the Corporation as part of the application for conversion.

(3) The statement, letter and press release, unless otherwise authorized by the Corporation shall contain only (but need not contain all of) the following:

(i) A statement that the board of directors has adopted a proposed plan to convert the insured institution from a Federal (or State, as the case may be) mutual institution to a Federal (or State, as the case may be) capital stock insured institution;

(v) A statement that the proposed plan of conversion is subject to approval by the Federal Home Loan Bank Board and by the appropriate State regulatory authority or authorities (naming such an authority or authorities) before such plan can become effective and that members of the applicant will have an opportunity to file written comments including objections and materials supporting such objections to the Board.

(b) *Notice of filing.* (1) Upon determination that an application for conversion is properly executed and is not

materially incomplete, the Corporation will advise the applicant, in writing, to publish a notice of the filing of such application. Promptly after receipt of such advice, the applicant shall publish a notice of such filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION FOR CONVERSION TO CONVERT TO A STOCK SAVINGS AND LOAN ASSOCIATION

Notice is hereby given that, pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts has filed an application

(fill in name of applicant)

with the Federal Savings and Loan Insurance Corporation for approval to convert to the stock form of organization. Copies of the application have been delivered to the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552, and to the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of _____

(Street address)

(City)

(State)

(Zip Code)

Written comments, including objections to the plan of conversion and materials supporting such objections, from any member of the applicant will be considered by the Corporation if filed within 20 business days after the date of this publication. Three copies of such comments should be sent to the aforementioned Office of the Secretary with one copy to said Office of the Supervisory Agent. The proposed plan of conversion and any comments thereon will be available for inspection by any member of the applicant at said Office of the Secretary and at said Office of the Supervisory Agent. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's members speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of such notice shall also be published in such newspaper.

5. In § 563b.5, the introductory text of (a), (a) (2), (e) (1), the introductory text of (g) (3), and (g) (3) (ii) and (iii) are revised as follows:

§ 563b.5 Solicitation of proxies; proxy statement.

(a) *Solicitations to which rules apply.* This section applies to every solicitation of a proxy from an association member of an insured institution for the meeting at which a conversion plan will be voted upon, except the following:

(2) Any solicitation through the medium of a newspaper advertisement which informs association members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy or any other soliciting material

and does no more than (i) name the insured institution, (ii) state the reason for the advertisement, (iii) identify the proposal or proposals to be acted upon by association members, and (iv) urge the member to vote at the meeting.

(e) *Material required to be filed.* (1) Applicants shall file ten preliminary copies of such proxy materials as are required by the form for applying for approval to convert under this part.

(g) *False or misleading statements.*

(3) If a solicitation by management violates any provision of this section, the Corporation may require remedial measures including:

(ii) Rescheduling of the meeting for a vote on the conversion; and

(iii) Any other actions the Corporation may deem appropriate in the circumstances in order to ensure a fair vote.

6. In § 563b.6 the section heading and (a) are revised, and (e) is revoked as follows:

§ 563b.6 Vote by members.

(a) *Vote at special meeting.* Following Corporation approval of an application for conversion, the plan of conversion shall be submitted to a special meeting of members, unless in the case of a State-chartered converting insured institution State law requires that the plan be considered at an annual meeting of members.

(e) [Revoked; effective June 9, 1975]

7. Section 563b.7 is amended by revising paragraphs (a), (b) and (c); by deleting present paragraph (d); by deleting the phrases "and (d)" and "preliminary or final approval of" from present paragraph (e) and redesignating present paragraph (e) as paragraph (d); by revising present paragraph (f) and redesignating it paragraph (e); by deleting the phrases "and (d)" and "to the materials in support of such price ranges and prices" from the first sentence of present paragraph (g) (1) and redesignating that paragraph as paragraph (f); by revising paragraph (h) and redesignating that paragraph as paragraph (g); by deleting present paragraph (j); and by redesignating present paragraphs (i) and (k) as paragraphs (h) and (l), as follows:

§ 563b.7 Pricing and sale of securities.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation. No sale of such securities in the subscription offering may be made except by means of the final offering circular for the subscription of offering. No sale of unsubscribed securities

may be made except by means of the offering circular for the public or other offering. The provisions of this paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with the applicant.

(b) *Distribution of offering materials.* The proxy statement authorized for use by the Corporation, or any preliminary offering circular for the subscription offering which has been filed with the Corporation, may be distributed to eligible account holders not entitled to vote on the plan of conversion and to others in connection with the subscription offering at the same time as or after such proxy statement is mailed to association members pursuant to § 563b.6(c). Any preliminary offering circular for the public or other offering of unsubscribed securities, which has been filed with the Corporation, may be distributed in connection with such offering at the same time as or after such proxy statement is mailed to association members pursuant to § 563b.6(c). No final offering circular shall be distributed until such offering circular has been declared effective by the Corporation.

(c) *Estimated price information in proxy statements and preliminary offering circulars.* With respect to the capital stock of the applicant to be sold under the plan of conversion, the proxy statement and any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of such price range should normally be no more than 15 percent above the average of the minimum and maximum of such price range and the minimum should normally be no more than 15 percent below such average. The maximum price used in the price range should normally be no more than \$50 per share and the minimum no less than \$5 per share.

(d) *Prohibited representations.* The Corporation will review the price information required under paragraph (c) of this section in determining whether to give approval to the application for conversion.

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share acceptable to the Corporation. No underwriting commissions shall be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

(f) *Pricing materials.* (1) In considering the pricing information required under paragraph (c) of this section, the Corporation will apply the following guidelines:

(g) *Order forms for purchase of capital stock.* (1) Promptly after the Corporation has declared the offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders and other persons who may subscribe for such shares under the plan of conversion.

(3) The maximum subscription price stated on each order form shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the Board's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within such subscription price range, the applicant must obtain an amendment to the Board's approval. If appropriate, the Board will condition its amended approval by requiring a resolicitation of proxies and/or order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to those who have paid the maximum subscription price.

(4) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear and intelligible a manner as possible, the actions which are required or available to him with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(i) Indicate the number of entitlement shares and the number of additional shares for purchase by the eligible account holder in the subscription offering. Indicate separately any other subscription rights which are available to eligible account holders and to other persons who may subscribe for capital stock under the plan of conversion. If there are several different types of subscription rights under the plan of conversion so that their inclusion on a single order form would cause it to be too complex, the application may wish, and the Corporation may require, the distribution of different order forms to different classes of persons who may subscribe;

(ii) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than 20 days following the date of the mailing of the order form;

(iii) State the maximum subscription price per share of capital stock;

(iv) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(v) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(vi) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account

holder's passbook savings account or certificate of deposit without penalty. If payment is to be made by such withdrawal, a box to check should be provided;

(vii) Provide specifically designated blank spaces for dating and signing the order form;

(viii) Contain an acknowledgement by the eligible account holder or other person signing the order form that he has received the final offering circular for the subscription offering prior to so signing; and

(ix) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

(5) The order form may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a passbook savings account or certificate of deposit, the applicant may, but need not, cause such withdrawal to be made upon receipt of the order form. If such withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the amount withdrawn as if such amount had remained in the account from which it was withdrawn until such closing date.

(h) *Withdrawal from certificate accounts.* * * *

(i) *Period for completion of sale.* * * *

(j) [Revoked; effective June 9, 1975]

(k) [Revoked; effective June 9, 1975]

(8) Section 563b.8 is amended by revising paragraphs (a), (b), (c), and (d); by changing the phrases "paragraph (c) (4) (ii)" and "paragraph (c) (4) (i)" in present paragraphs (c) (4) (i) and (ii) to "paragraph (e) (4) (ii)" and "paragraph (e) (4) (i)"; by changing the phrase "paragraph (1)" in present paragraph (e) to "paragraph (n)" and deleting the word "preliminary" from that paragraph; by changing the phrase "paragraph (j)" in the second sentence of present paragraph (i) (1) to "paragraph (1)"; by changing the phrase "paragraph (m) (2)" in present paragraph (m) (1) to "paragraph (o) (2)"; by adding a new paragraph (m) (3) immediately following paragraph (m) (2) of present paragraph (m); by changing the phrase "paragraph (n)" in present paragraph (n) (2) to "paragraph (p)"; by changing the letter "(r)" in paragraph (i) (2) to "(t)"; by adding a new paragraph (u) immediately following present paragraph (r); and by redesignating paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r) and (s) as paragraphs (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t) and (v), as follows:

§ 563b.8 Procedural requirements.

(a) *Filing an application for conversion.* An applicant that desires to convert in accordance with this part shall file ten copies of an application for approval in the form prescribed by the Corporation.

(b) *Return of improperly executed or materially incomplete filings.* Any application for approval that is improperly executed, or that does not contain copies of (i) a plan of conversion, (ii) a preliminary proxy statement with signed financial statements, and (iii) a preliminary form of proxy, shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion, proxy statement, or form of proxy may be returned by the Corporation to the applicant.

(c) *Additional filing requirements.* An applicant whose plan of conversion has been approved by the Corporation shall fulfill the following requirements.

(1) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion a certified copy of each resolution adopted at such meeting relating to the plan of conversion, together with the following information:

(i) the total number of votes eligible to be cast;

(ii) the total number of votes represented in person or by proxy at the meeting;

(iii) the total number of votes cast in favor of and against each such matter; and

(iv) the percentage of votes necessary to approve each such matter.

The compilation of the votes cast at the meeting may be prepared for the insured institution, by an independent public accountant or by an independent transfer agent.

(2) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion an opinion of counsel to the effect that (1) the meeting of members was duly held in accordance with all requirements of applicable State and Federal law and regulation; and (2) all requirements of State law applicable to the conversion have been complied with.

(3) The offering circulars for the subscription offering and for the public or other offering shall be prepared in compliance with this part and Form OC. The applicant shall file with the Corporation ten copies of each preliminary offering circular and twenty-five copies of each final offering circular.

(d) *Termination or amendment of charter.* (1) Upon approval of a plan of conversion by the members of a State-chartered insured institution or a Federal association which is converting to a State-chartered stock insured institution, the charter of such insured institution shall terminate effective upon the issuance to it of a stock charter under the laws of the State in which the home office of the applicant is located. If such

converting insured institution is a Federal association, its Federal charter shall promptly be surrendered to the Board for cancellation. An insured institution converting to a State-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall promptly be surrendered to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federal association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a Charter S association.

The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(e) *Number of copies; place of filing; binding; signatures.* * * *

(4) (i) Except as provided in paragraph (e) (4) (ii) of this section, the filing of any application or amendment thereto under this part shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not such director has signed the application or any amendment thereto) severally that (A) he has read such application or amendment, (B) in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that such application or amendment complies to the best of his knowledge and belief with the applicable requirements of this part and forms prescribed hereunder, and (C) each such person holds such informed opinion.

(ii) The representations specified in paragraph (e) (4) (i) of this section shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, such director files with the Corporation within ten business days after the filing of such application or amendment a statement describing those portions of such filing as to which he does not so represent.

(f) *Requirements as to paper and printing.* * * *

(g) *Method of preparation.* Every application shall furnish information in item-and-answer form in response to the items of the appropriate form, and shall include the captions of the form, but omit the text of all items and instructions. Every proxy statement and offering circular shall present information as provided in paragraph (n) of this section in response to the items of the appropriate form in lieu of furnishing the information in item-and-answer form, and shall omit the captions and text of all items and instructions. Every application shall include a cross reference

sheet showing the location in the proxy statement and offering circular of the response to the items of the appropriate form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.

(h) *Interpretation of requirements.* * * *

(i) *Additional information.* * * *

(j) *Information unknown or not reasonably available.* * * *

(k) *Incorporation of certain information by reference.* (1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to such item. No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing such information is attached thereto or is summarized or outlined as provided in paragraph (1) of this section. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline. * * *

(l) *Summaries or outlines of documents.* * * *

(m) *Legibility of materials.* * * *

(n) *Presentation of information.* * * *

(o) *Application of amendments to regulations and forms.* (1) The form and contents of any filing made under the provisions of this part need conform only to the applicable regulations and forms then in effect, and contain the information, including financial statements specified therein, required at the time the filing is made, notwithstanding subsequent amendments to such regulations, except as otherwise provided in any such amendment or in paragraph (o) (2) of this section. * * *

(3) Applications for conversion filed pursuant to this part shall conform to the regulations and forms of this part as revised by the Corporation effective June 9, 1975.

(p) *Consent of experts.* * * *

(2) All written consents filed pursuant to this paragraph (p) shall be dated and signed manually. A list of such consents shall be filed with the application. Where the consent of the expert is contained in his report, a reference shall be made in the list to the report containing such consent.

(q) *Consent of persons about to become directors.* * * *

(r) *Date of filing.* * * *

(s) *Amendments.* * * *

(t) *Pre-filing conferences with applicants.* * * *

(2) Pre-filing review of an application may be refused by the staff of the Board and the Supervisory Agent if such review would delay the examination and processing of material which has already

been filed or would favor certain applicants at the expense of others. In any conference under this paragraph (t), the staff of the Board and the Supervisory Agent will not undertake to prepare material for filing but will limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

(u) *Review of Board action.* Any person aggrieved by a final action of the Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this part may obtain review of such action by filing in the court of appeals of the United States for the circuit in which the principal office or residence of such person is located, or in the United States Court of Appeals for the District of Columbia Circuit, a written petition praying that the final action of the Board or Corporation be modified, terminated or set aside. Such petition must be filed within 30 days after publication of notice of such final action in the Federal Register, or 30 days after the mailing by the applicant of the notice to members as provided for in § 563b.6(c), whichever is later. The further procedure for review is as follows. A copy of the petition is forthwith transmitted to the Board or the Corporation by the clerk of the court and thereupon the Board or the Corporation files in the court the record in the proceeding, as provided in Section 2112 of Title 28 of the United States Code. Upon the filing of the petition, the court has jurisdiction, which upon the filing of the record is exclusive, to affirm, modify, terminate, or set aside in whole or in part, the final action of the Board or the Corporation. Review of such proceedings is had as provided in Chapter 7 of Title 5 of the United States Code. The judgment and decree of the court is final, except that they are subject to review by the Supreme Court upon certiorari as provided in Section 1254 of Title 28 of the United States Code.

(v) *Post-conversion reports.* * * *
 9. Form PA and the Items thereunder are amended by revising its Facing Sheet, by changing its title from "Form PA" to "Form AC", by changing its name from "Application for Preliminary Approval of Conversion" to "Application for Conversion", by changing the Board's address from "101 Indiana Avenue, N.W." to "320 First Street, N.W."; by revising paragraph A of the General Instructions to present Form PA by changing the phrases "Form PA" in the title of the paragraph and the first sentence of the paragraph to "Form AC" and deleting the word "preliminary"; by deleting the word "preliminary", wherever it appears in Items 1 and 5; by changing the figure "\$20,000" to "\$40,000" in Items 7; and by adding a new Item 11 immediately after Item 10, as follows:

FORM AC

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD
 FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

320 First Street NW.
 Washington, D.C. 20552

Application for Conversion

(Exact name of Applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)

Date of Application

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form AC.* Form AC shall be used by any insured institution seeking Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation approval of conversion from the mutual to the stock form of organization pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts.

Item 1. *Form of Application.* Set forth an application for approval of the plan of conversion in the following form with the names and titles of the officers and directors signing the application indicated below their signatures.

The undersigned hereby makes application for approval to convert into a stock association, and submits herewith a statement of its proposed plan of conversion and other information and exhibits as required by Part 563b of the Rules and Regulations for Insurance of Accounts of the Federal Savings and Loan Insurance Corporation. * * *

Item 5. *Sequence and Timing of the Plan.* Set forth the expected chronological order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the plan. Indicate the expected timing of any requisite approvals by State authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or other offering of the applicant's securities as part of the plan of conversion, indicate the proposed timing of all aspects of such offering. For purposes of completing this item, the applicant should allow a minimum of 30 business days after filing of this application for receipt of comments from the Corporation's staff and a minimum of ten business days after filing substantive amendments in response to such comments for approval of the conversion by the Corporation.

Item 7. *Savings Account Balances of Personnel.* For each director and officer of the applicant whose total account balances, including the balances of each associate of the foregoing persons, were more than \$40,000 as of the eligibility record date and which balances had increased by more than 25 percent during the six-month period prior to the

eligibility record date, set forth in tabular form his total account balances as of (a) the eligibility record date and (b) each of the four earnings distribution dates of the applicant immediately preceding the eligibility record date.

Item 11. *Federally Chartered Stock Associations—Charter S Association.* State whether the converting Federal association is applying to amend its charter and bylaws to read in the form of the charter and bylaws of a Charter S association.

10. The Exhibits under present Form PA are amended by revising Exhibit 2 by adding a new subdivision (k) immediately after subdivision (j), by revising the last sentence and by redesignating current subdivisions (k), (l), (m), and (n) as (l), (m), (n) and (o); by revising Exhibit 3 by adding a new sentence immediately after subdivision (e); and by revising Exhibit 7 by changing the phrases "§ 563b.8(h)" and "§ 563b.8(h)(2)" in paragraph (a) to "§ 563b.8(j)" and "§ 563b.8(j)(2)", by changing the phrase "§ 563b.8(n) and (o)" in paragraph (b) to "§ 563b.8(p) and (q)", by changing the phrase "§ 563b.8(c)(3)" in paragraph (e) to "§ 563b.8(e)(3)" and by changing the phrase "§ 563b.8(e)" in paragraph (f) to "§ 563b.8(g)", as follows:

EXHIBITS

The following exhibits shall be attached to this Form.

Exhibit 2. *Copies of Documents, Contracts and Agreements.* Furnish the following documents, contracts and agreements:

(k) any charter amendment filed for the purpose of converting a Federal mutual association to a Federal stock association; (l) any proposed contracts or agreements among the members of a management group or syndicate regarding the purchase of unsubscribed shares; (m) any documents referred to in the answer to Item 10; (n) any trustee agreements or indentures; and (o) any agreements for the making of markets or the listing on exchanges of the stock of the converted insured institution. Documents, contracts and agreements which are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of association members to consider the plan of conversion, except for the documents required by subdivisions (l) and (l) which shall be furnished in substantially final form.

Exhibit 3. *Opinion of Counsel.* Furnish an opinion of counsel for the applicant regarding each of the following matters: (a) the legal sufficiency of the applicant's proposed certificates and order forms for capital stock and any other securities; (b) State law requirements applicable to the plan of conversion including citations to applicable State law and whether such requirements will be fulfilled by the plan; (c) the legal sufficiency of the applicant's bylaws; (d) the type and extent of each class of voting rights in the applicant after conversion, including any requirement of State law that savings account holders or borrowers having voting rights in the converted insured institution;

and (e) the legality and Federal income tax effect to the applicant of any proposed qualified stock option plan described in response to Item 12 of Form PS. Matters listed in subdivisions (b), (c) and (d) of this Exhibit only apply to an applicant which is converting to a State-chartered stock association.

Exhibit 7. Other Materials. (a) If information required by an appropriate form is not given for the reasons specified in § 563b.8 (j), furnish the statement required for each such omission by § 563b.8(j) (2).

(b) Furnish all consents required to be filed by § 563b.8 (p) and (q).

(c) If applicable, furnish the statement required by the Instruction to Item 5(e) of Form PS regarding events which occurred within the last ten years to directors of the applicant.

(d) If information required by Item 15(h) of Form PS relating to historical financial information is omitted, furnish the statement required by Item 15(h) (1) of Form PS.

(e) Furnish any powers of attorney employed pursuant to § 563b.8(e) (3).

(f) Furnish the cross reference sheet referred to in § 563b.8(g).

(g) If the applicant wishes to request a waiver of compliance in accordance with § 563b.1(c), furnish the materials required by § 563b.1(c) (2).

11. Form PS is amended by revising Item 2; by revising paragraphs (a), (d), (e), (f), (g) and (i) of Item 8; by revising paragraph (c) of Item 15; and by amending paragraph (a) of Item 16 by changing the phrase "563b.8(n)" to "563b.8(p)" as follows:

FORM PS

Item 2. Revocability of Proxy. State that the person giving the proxy has the power to revoke it before the proxy is exercised at the meeting. If the right of revocation is subject to compliance with any formal procedure, briefly describe such procedure. Briefly describe any charter, bylaw or applicable Federal or State law requirements otherwise restricting voting by proxy. State that the proxy is solicited for that meeting, and any adjournment thereof, and will not be used for any other meeting. (See also § 563b.5(d) (3)).

Item 8. Description of the Plan of Conversion. (a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Item: The Federal Home Loan Bank Board has given approval to the plan of conversion, subject to its approval by association members and the satisfaction of certain other conditions. However, such Board approval does not constitute a recommendation or endorsement of the plan by the Board.

(d) With respect to the subscription offering, furnish the following information: (1) the formula to be used for determining the subscription rights of eligible account holders to purchase entitlement and additional shares pursuant to § 563b.3(c) (2) and (3); (2) any minimum share purchase requirements pursuant to § 563b.3(d) (8); (3) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of capital stock including the purchase priorities, any limitation on total purchases, the total number of shares which may be purchased, and the formula for their allocation; (4) the allocation formulas to be used in the event that there is an oversubscription of shares at any time

during the sale of stock under the plan of conversion; and (5) the use and timing of the order forms with respect to the subscription offering.

(e) (1) Set forth on a per share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion; (2) state that the public offering price will be the pro forma market value of such shares based on an independent valuation; (3) state that all of the shares are required to be sold; and (4) describe briefly the results of the appraisal of the association made by an independent appraiser for the purpose of determining the estimated price range.

(f) Discuss (1) the earnings per share on a pro forma basis of the capital stock to be sold as of the end of the most recent period covered by the statements of operation required by Item 15(b) (1); and (2) the book value per share on a pro forma basis as of the date of the latest statement of financial condition required by Item 15(a).

Instruction. Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock, and then after giving effect to such proceeds with all assumptions used clearly stated.

(g) With respect to the subscription offering, state the proposed commencement and expiration dates of the subscription period and describe any provisions in the plan of conversion related to the timing of the subscription offering or extension of the subscription period. Also, state (1) that a maximum subscription price will be set forth in the offering circular used for the subscription offering; (2) that the actual subscription price will be the public offering price; (3) that the actual subscription price will not exceed the maximum subscription price shown on the order form; and (4) that any difference between the maximum and actual subscription prices will be refunded.

(1) (1) State whether the plan of conversion provides for the capital stock not purchased in the subscription offering to be offered to the public through underwriters. If such is the case, provide the information to the extent known required by Item 6 of Form OC and indicate the proposed timing of the underwritten offering. (2) State whether the plan of conversion provides for a private distribution of any shares not purchased in the subscription offering. If such is the case, provide the information, to the extent known, required by Item 6 of Form OC and indicate the proposed timing of the private distribution.

Item 15. Financial Statements.

(c) **Statements of Changes in Financial Position.** Furnish certified statements of changes in financial position (1) for each of the three fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a) and (2) furnish a statement for the period if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a). This additional statement need not be certified.

Item 16. Consents of Experts and Reports. (a) The proxy statement shall briefly describe all consents of experts filed pursuant to § 563b.8(p).

12. Form OC is amended by adding the words "and use of" to the title of Item 1; by revising Item 4; and by deleting the phrase "or prices" from paragraph (h) of Item 6, as follows:

FORM OC

Item 1. Information Required By and Use of Form OC.

Item 4. Preliminary Offering Circular. The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of such offering circular.

"This offering circular has been filed with the Federal Savings and Loan Insurance Corporation, but has not been authorized for use in final form. Information contained herein is subject to completion or amendment. The shares covered hereby may not be sold nor may offers to buy be accepted prior to the time the offering circular is declared effective by the Federal Savings and Loan Insurance Corporation. This offering circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these shares in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State."

Item 6. Information With Respect to Public or Other Offering.

(b) The outside front cover page of the offering circular for the public or other offering shall briefly summarize the results of the subscription offering including the number of shares sold to eligible account holders and others, the price at which the shares were so sold, and the number of unsubscribed shares. Such offering circular may omit the description of the subscription offering required by Item 5.

FORM FA [REVOKED; EFFECTIVE JUNE 9, 1975]

13. Form FA is revoked.

(Sec. 105, Pub. L. 93-495, October 28, 1974; Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc. 75-11968 Filed 5-6-75; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-WE-32-AD;
Amdt. 39-2196]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes 369 Series Helicopters

Pursuant to the authority of the Federal Aviation Act of 1958 as amended, delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on April 16, 1975 and made effective immediately by airmail letter dated April 17, 1975, to all known United States operators of Hughes Model 369, 369A, 369H, 369HM, 369HS, and 369HE helicopters including Military OH-6 and OH-6A equipped with aluminum tail rotor blades, part number 369A1613 or 369A1613-3.

The agency has received several reports of cracking and one fracture of the tail rotor blade aluminum root end fittings. The airworthiness directive requires a daily visual check or inspection, and rework prior to 50 hours additional operating time and replacement of the aluminum tail rotor blades if necessary prior to further flight.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately to all known operators or owners of certain Hughes Model 369, 369A, 369H, 369HM, 369HS, and 369HE Helicopters including Military OH-6 and OH-6A. [It has been found that the current Military designation corresponding to the Hughes Model 369 only is YOH-6A rather than OH-6 and this AD has been corrected accordingly]. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

HUGHES HELICOPTERS. Applies to Hughes model 369, 369A, 369H, 369HM, 369HS, and 369HE helicopters certificated in all categories including Military YOH-6A and OH-6A equipped with aluminum tail rotor blades, part number 369A1613 or 369A1613-3. To determine if cracks exist in the root fittings of the tail rotor blades and assure timely rework of the fittings accomplish the following:

A. Perform a close visual check by the pilot in command, or inspection by a certificated mechanic on any day the helicopter is operated, in accordance with Part III of Hughes Service Information Notice No. HN-83, dated April 15, 1975 or later FAA approved revisions. Comply with Part II of the notice for those blades specified therein prior to the first daily check or inspection. Remove all cracked blades from service prior to further flight. Note: The person who performs the check or inspection shall record it in the appropriate aircraft records per FAR 91.173.

B. Within the next 50 hours time in service, unless already accomplished, comply with Part I of Hughes Service Information Notice No. HN-83, dated April 15, 1975, or later FAA approved revisions. Remove all cracked blades from service prior to further flight. Continue the checks or inspections specified in paragraph A, above.

C. For blades in spares inventory, including blades on spare tail rotor assemblies, accomplish Parts I and II of the Hughes S.I.N. No. HN-83, dated April 15, 1975, or later FAA approved revisions, at or before installation on helicopter.

D. Equivalent checks, inspections and rework may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

E. Aircraft may be flown to a base for performance of that work required by paragraph B, above, of this AD, per FARs 21.197 and 21.199.

This amendment is effective May 12, 1975, for all persons except those to whom it was made effective immediately by airmail letter dated April 17, 1975.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on April 25, 1975.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.75-11887 Filed 5-6-75; 8:45 am]

[Airspace Docket No. 75-SO-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On March 24, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 13001), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charlotte, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. There were no comments received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the Charlotte, N. C., transition area is amended as follows: " * * * longitude 81°03'30" W.," is deleted and " * * * longitude 81°03'30" W.); within a 7-mile radius of Jaars-Townsend Airport, Waxhaw, N.C. (latitude 34°51'50" N., longitude 80°44'50" W.); excluding the portion within Lancaster, S.C., transition area." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on April 28, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-11888 Filed 5-6-75; 8:45 am]

[Airspace Docket No. 75-SO-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On April 14, 1975, FR Doc. 75-9562 was published in the FEDERAL REGISTER (40 FR 16651) amending Part 71 of the Federal Aviation Regulations effective June 19, 1975, by amending V-70 airway northeast of Vienna, Ga., to exclude from the airway that airspace above 9,000 feet MSL between the INT of Vienna 066° and Dublin, Ga., 121° radials and the INT of Allendale, S.C., 247° and Augusta, Ga., 148° radials. The exclusion should have begun at the INT of the Vienna 066° and Dublin 122° radials in lieu of the Vienna 066° and Dublin 121° radials. Action is taken herein to specify the Dublin 122° radial. Since this is a minor change on which the public would have no particular reason

to comment, notice and public procedure thereon are unnecessary. Since it is necessary that aeronautical charts reflect this change on the original effective date of FR Doc. 75-9562, this amendment is made effective upon May 7, 1975.

In consideration of the foregoing, effective May 7, 1975, FR Doc. 75-9562 (40 FR 16651), in the center column, line 3 is amended to read: "Dublin, Ga., 122° radials and the INT of"

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 30, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.75-11889 Filed 5-6-75; 8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR-95; Amdt. 21]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Period for Post Audit of Fee Payments

MAY 1, 1975.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

Our present rules governing the payment of filing fees, under Part 389 of the Board's Organization Regulations (14 CFR Part 389) provide for a period of 10 days following payment of fees, during which a post audit is to be made by the Chief of the Board's Finance Section, in order to determine whether the filing party has paid the appropriate amount (§ 389.22(b)).

A determination as to the appropriate filing fee sometimes entails careful analysis of the document to which it relates, since the filing party's caption of the document does not always reflect accurately the substance of its contents, and the amount of filing fee payable on a document depends on its substantive nature rather than on its caption.

In light of some recent instances involving questions as to fees properly due for filed documents, it has become clear that our present procedures afford an inadequate period for post audits of documents which are not easily categorized. We have therefore determined that a maximum period of 30 days should be allowed to the Chief of the Finance Section for performance of this function, so that a reasonable amount of time will be available for making determinations in difficult cases. We shall of course expect post audits to continue to be performed as expeditiously as circumstances permit, so that, in routine cases, when any additional amounts are determined to be due, a filing party should be so advised in advance of the new 30-day deadline.

Since the amended rule is one of agency procedure and practice, the Board finds that notice and public procedure

thereon are not required, and the rule will be made effective immediately.

Accordingly, the Board hereby amends Part 389 of its Organization Regulations (14 CFR Part 389), effective May 1, 1975, as follows:

Amend paragraph (b) of § 389.22 to read as follows:

§ 389.22 Failure to make proper payment.

(b) The filing fee tendered by a filing party shall be accepted by the Board of Finance to whom payment is made, subject to post audit by the Chief of the Board's Finance Section and notification to the filing party within 30 days of any additional amount due. Not more than 5 days after receipt of the notification, the determination of the Chief, Finance Section, may be appealed to the Executive Director of the Board, who has been delegated authority by the Board to decide such appeals in § 385.12 of this chapter. The filing party may submit to the Board a petition for review of the Executive Director's decision pursuant to § 385.50 of this chapter, and proceedings thereon will be governed by Part 385, Subpart C, of this chapter.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

Effective: May 1, 1975.

Adopted: May 1, 1975.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 75-11974 Filed 5-6-75; 8:45 am]

**Title 15—Commerce and Foreign Trade
CHAPTER I—BUREAU OF THE CENSUS,
DEPARTMENT OF COMMERCE**

PART 60—PUBLIC INFORMATION

Part 60 of Chapter I of Title 15 of the Code of Federal Regulations is hereby revised.

The purpose of this revision is to conform with criteria set forth in Title 5, United States Code, section 552, as amended by Pub. L. 93-502, and to conform with the rules promulgated by the U.S. Department of Commerce on March 12, 1975 (40 FR 11551). These regulations prescribe the procedures to be followed by members of the public in requesting data under the Freedom of Information Act, and by the Bureau of the Census in searching for and providing requested data.

The rules proposed herein do not fall within the criteria set forth in the draft Department Administrative Order relating to Inflationary Impact Statements required by Office of Management and Budget Circular No. A-107.

Because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule-making, opportunity for public participa-

tion and delay in effective date are inapplicable.

The effective date of these regulations is February 19, 1975.

Title 15, Code of Federal Regulations, Part 60, is hereby revised in its entirety as follows:

Sec.	Scope and purpose.
60.1	Policies.
60.2	Definitions.
60.3	Publication in the FEDERAL REGISTER.
60.4	Availability of materials for inspection and copying.
60.5	Confidentiality of data collected by the Bureau of the Census.
60.6	Requests for records.
60.7	Initial determinations of availability of records.
60.8	Appeals from initial denials or untimely delays.
60.9	Fees.
60.10	Arrangements for public inspection and copying of available records.
60.11	

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502; 5 U.S.C. 553; 5 U.S.C. 301; 40 FR 11551.

§ 60.1 Scope and purpose.

(a) This part revises the rules whereby the Bureau of the Census is to make publicly available the materials and indexes specified in 5 U.S.C. 552(a)(2), and the records requested under 5 U.S.C. 552(a)(3). This revision is to conform the rules to the requirements of the Freedom of Information Act (5 U.S.C. 552), as amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975.

(b) These rules supplement Department Administrative Order 205-12, which contains policies, delegations of authority, and other rules implementing 5 U.S.C. 502. These rules also supplement the rules published on March 12, 1975, by the Department of Commerce (40 FR 11551).

§ 60.2 Policies.

(a) Policies and other factors to be considered in issuing the rules in this part are set forth in Department Administrative Order 205-12.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records, and the Bureau is not required, in response to a request, to create records by combining or compiling information contained in existing records, or otherwise to prepare new records. However, Bureau officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1525-1527, or in accord with authority otherwise provided by law.

§ 60.3 Definitions.

(a) To the extent that terms used in this part are defined in 5 U.S.C. 551, they shall have the same definition herein.

(b) As used in this part, "Act" means the "Freedom of Information Act," as amended, 5 U.S.C. 552.

§ 60.4 Publication in the Federal Register.

(a) Materials required to be published pursuant to the provisions of 5 U.S.C. 552

(a) (1) have been and shall continue to be so published, in one of the following ways:

(1) By publication in the FEDERAL REGISTER of the Department Orders of the Department of Commerce, including any supplements and appendices thereto, and of appropriate Secretary of Commerce Circulars and Department Administrative Orders;

(2) By publication in the FEDERAL REGISTER of agency rules and regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(3) By publication in the FEDERAL REGISTER of appropriate general notices; and

(4) By other forms of publication, when incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the Federal Register.

(b) Those materials which are published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) shall, to the extent practicable and to further assist the public, be made available for inspection and copying at the facility identified in § 60.5(c).

§ 60.5 Availability of materials for inspection and copying.

(a) The Director, Bureau of the Census shall, as provided in 5 U.S.C. 552(a)(2) and subject to other provisions of law, establish and maintain a reference facility for the public inspection and copying of:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Bureau and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Current indexes providing identifying information for the public as to any matter which is (i) issued, adopted, or promulgated after July 4, 1967, and (ii) required to be made available or published by section 552(a)(2);

(5) Records of the final votes of each member in every proceeding of any agency comprised of more than one member;

(6) Rules and decisions denying requests for records which otherwise implement or relate to the Act; and

(7) Materials published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) and such other materials which each unit may consider desirable and practical to make available for the convenience of the public.

(b) The Bureau may, to prevent unwarranted invasion of personal privacy, delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and shall, in each such case, explain in writing the justification for the deletion.

(c) The Secretary of Commerce has determined (DAO 205-12, subparagraph

5.02a.5.) that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). Upon request, copies of such indexes shall be provided at the public reference facility at a cost not to exceed the direct cost of duplication.

(d) The above materials may be inspected in the SESA Freedom of Information Records Inspection Facility located at the Library Branch, Room 2455, Federal Building 3, Social and Economic Statistics Administration, Washington, D.C. 20233 (Suitland, Maryland). This facility is open to the public Monday through Friday of each week, except on official Federal holidays, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for such inspections. Upon request, however, the facility will arrange to have copies of the above materials made at the cost shown in § 60.10.

(e) Correspondence concerning the materials available in the facility should be sent to the above address. The telephone number of the facility is 763-5040, Area Code 301.

§ 60.6 Confidentiality of data collected by the Bureau of the Census.

(a) The Bureau of the Census is required by law to keep certain records confidential. Protection against unauthorized disclosures is provided by title 13, U.S.C.

§ 60.7 Requests for records.

(a) The procedures of this section are applicable only to those records not customarily available to the public as part of the regular informational activities of the Bureau or which are not available in the SESA reference facility described in § 60.5. The procedures and fees generally do not apply to applications for personal census information. Applications for personal census information should be directed to the Bureau's Personal Census Service Branch at Walnut and Pine Streets, Pittsburg, Kansas 66762.

(b) A person who wishes to inspect records described in § 60.7(a) shall make a request in writing, with the envelope and letter clearly marked "Freedom of Information Desk" or "Freedom of Information Request" or the equivalent, to distinguish it from other mail to the Department. Each such request, so marked, shall be addressed to Director, Bureau of the Census, Attention: Freedom of Information Desk, Washington, D.C. 20233.

(c) A request which is not addressed as described in § 60.7(b) and which is not routed through the Department's Central Facility, will not be deemed to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when a request is for-

warded, the Bureau of the Census shall notify the requester that his request was improperly addressed and of the date the request was received by Census.

(d) A request for records shall sufficiently identify the records requested to enable Census personnel familiar with the subject matter to locate them with a reasonable amount of effort. The requester shall, to the extent possible, furnish specific descriptive information regarding dates and places the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location and case shall be identified. When more than one record is requested, the request shall clearly describe each specific record, and the specific information requested which is contained in a record, so that its availability may be separately determined. Employees at the SESA reference facility described in § 60.5 will assist the public to a reasonable extent in framing a request.

§ 60.8 Initial determinations of availability of records.

(a) Whenever the Bureau of the Census receives a request for records it shall promptly log the receipt of the request, and within 10 days of its receipt (excluding Saturdays, Sundays and legal public holidays) shall initially determine:

(1) Whether the request is for records under the Act, is for materials available otherwise than under the Act, or is for information not contained in existing records, and, therefore, not under the Act. The requester shall be promptly notified in writing how the request is being handled when it does not come within the Act.

(2) Whether the records requested are reasonably described and can be located on the basis of the information supplied by the requester. If any of the records requested cannot be identified and located from the information furnished, the Bureau shall promptly so inform the requester in writing, specifying what additional identification is needed to assist the Bureau in locating the record, and offering to assist the requester to reformulate its request.

(3) Whether the records no longer exist or are not in the Bureau's possession. The Bureau shall, if it knows which unit of the Department or other agency may have the records, forward the request to it. In each instance, the Bureau shall promptly notify the requester in writing.

(4) Whether the requested records are the exclusive or primary concern of another executive agency. If so, the Bureau shall promptly refer the request to that other agency for further action under its rules, and promptly notify the requester in writing of this referral.

(5) Whether the request is a categorical one. A categorical request, i.e., one for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably

described, if the particular records can be identified, searched for, collected and produced without unduly burdening or disrupting the Bureau's operations. If the categorical request does not reasonably describe the records requested, the Bureau shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester an opportunity to confer with Bureau personnel to attempt to reformulate the request so as reasonably to describe the records.

(6) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures relating to fees described in § 60.10 shall also be applied and coordinated as appropriate.

(b) An official having custody of the records requested in the Bureau of the Census shall review the request to determine the availability of the records requested.

(1) The determination shall be made within 10 days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in § 60.7 (c)), unless the time is extended as provided in paragraph (b) (2) of this section.

(2) In unusual circumstances, the Director may extend the time for initial determination for up to 10 days (excluding Saturdays, Sundays and legal public holidays) by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. Extensions of time for the initial determination and extensions of time on appeal may not exceed a total of 10 days, and time taken for the former counts against available appeal extension time. "Unusual circumstances" means, but only to the extent reasonably necessary to the processing of a particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practical speed, with another agency or unit having a substantial interest in the determination of the request, or among two or more components of the Bureau having substantial subject-matter interest therein.

(3) If no determination has been sent to the requester at the end of the initial 10-day period, or the last extension thereof, the requester may deem his/her request to be initially denied, and exercise a right of appeal therefrom. When no determination can be made within the applicable time period, the Bureau shall nevertheless exercise due diligence in continuing to process the request. It shall, on expiration of the applicable time period, inform the requester of the reason for the delay, of the date a determination is expected to be sent, and of

the requester's right to treat the delay as a denial and to appeal therefrom. It may ask the requester to forego an appeal until a determination is made.

(4) If it is determined that the records requested are to be made available, and there are no further fees to be paid, the responsible official shall promptly notify the requester as to where and when the requested records or copies may be obtained or otherwise provide them as agreed. If there are fees still to be paid by the requester, it shall be notified that upon payment the records will immediately be made available.

(5) Only the Director, Bureau of the Census, and in his absence, the Deputy Director have been authorized to make initial denials of requests for records. A reply initially denying, in whole or in part, a request for records shall be in writing, signed by the Director or, in the Director's absence, the Deputy Director, and it shall include:

(i) A reference to the specific exemption or exemptions of the Act authorizing the withholding of the records, stating briefly why the exemption applies and, where relevant, why a discretionary release is not appropriate.

(ii) The name and title or position of each official responsible for the denial.

(iii) A statement of the manner in which any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions which are determined to be exempt.

(iv) A brief statement of the right of the requester to appeal the determination, and the address to which the appeal should be sent, in accord with § 60.9 (a) and (b).

(6) The Office of the General Counsel of the Department shall be consulted before any initial denial of a request for records is issued and a copy of each initial denial shall be provided to the Assistant General Counsel for Administration of the Department of Commerce, and the SESA Legal Adviser.

§ 60.9 Appeals from initial denials or untimely delays.

(a) When a request for records has been initially denied in whole or in part, or has not been timely determined, the requester may submit a written appeal within 30-calendar days after the date of the written denial or, if there has been no determination, on the last day of the applicable time limit. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No personal appearance, oral argument or hearing on appeal is provided.

(b) An appeal shall be addressed to the Administrator, Social and Economic Statistics Administration, Washington, D.C. 20233. Both the appeal envelope and the letter shall be clearly marked "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. An appeal not addressed and marked as provided herein will be so marked by the Bureau personnel when it is so identified, and

will be forwarded immediately to the proper addressee. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 552(a) (6), until the earlier of the time that (1) forwarding to the Administrator has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when an appeal is so forwarded, the Administrator shall notify the requester that the appeal was improperly addressed and of the date the appeal was received by that official.

(c) The Administrator, SESA, shall act upon an appeal within 20 days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension of time is made in unusual circumstances, when the time for action may be extended up to 10 days (excluding Saturdays, Sundays and legal public holidays) minus any days of extension granted at the initial request level. A notice of such extension shall be sent to the requester, setting forth the reasons and the date on which a determination of the appeal is expected to be sent. As used in this paragraph, "unusual circumstances" are defined in § 60.8(b) (2).

(d) If a decision on appeal is to make the records available to the requester in part or in whole, such records shall be promptly made available for inspection and copying as provided in § 60.5.

(e) If no determination of an appeal has been sent to the requester within the 20-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e) (4). When no determination can be sent to the requester within the applicable time limit, the Administrator shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the notice to the requester shall include: (1) notation of the specific exemption or exemptions of the Act authorizing the withholding, a brief explanation of how the exemption applies, and, when relevant, a statement as to why a discretionary release is not appropriate; (2) a statement that the decision is final for the Bureau and for the Department of Commerce; (3) advice that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or the District of Columbia, and (4) the names and titles or positions of each official responsible for the denial of the request.

(g) No final denial may be issued without (1) consulting with the Office of the Special Assistant to the Secretary for Public Affairs, and (2) concurrence of the Office of the General Counsel of the Department.

(h) Final appeal decisions shall be indexed and kept available for public inspection and copying. Copies shall be sent to the Department's Assistant Secretary for Administration and Assistant General Counsel for Administration and the SESA Legal Adviser.

§ 60.10 Fees.

A uniform schedule of fees and procedures for collecting fees for the U.S. Department of Commerce has been promulgated and is published in 15 CFR 4.9, and applies to all requests for Bureau of the Census records.

§ 60.11 Arrangements for public inspection and copying of available records.

(a) Upon receipt of the records search fee, and any fees for additional services requested by the applicant, the requested record which has been determined to be available shall, unless the applicant has otherwise indicated, be transferred to SESA's reference facility, where it will be held for inspection by the applicant for a reasonable time. The address, and hours of operation, of this facility are stated in § 60.5(d).

(b) During inspection of the record at the facility, the applicant may copy by hand any portion of the record, may request the facility to make a copy thereof, and may obtain certification of a machine-copied record in accordance with the fee structure in § 60.10.

(c) No changes or alterations of any type may be made to the record being inspected, nor may any matter be added to or subtracted therefrom. Papers bound or otherwise assembled in a record file may not be disassembled during inspection. Staff of the facility shall provide assistance if disassembly of a record is necessary for copying purposes, and are authorized to supervise public inspection as necessary to protect the records of the Bureau. The public is reminded of title 18, United States Code, section 2701 (a), which makes it a crime to conceal, remove, mutilate, obliterate, or destroy any record filed in any public office, or to attempt to do any of the foregoing.

(d) If an applicant does not want to inspect a record by personal visit, he may request that a copy thereof be mailed to him, upon payment of the copying and postage fees set forth in § 60.10. Original copies of records shall not be sent to any location other than the reference facility for public inspection pursuant to 5 U.S.C. 552(a) (3).

(e) Copies of transcripts of hearings may be made available for inspection when not in use.

Dated: May 1, 1975.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

[FR Doc.75-11956 Filed 5-6-75; 8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75-105]

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

Informal Entries

Sections 123.4(b) and 143.23, Customs Regulations relating to procedures for recording the collection of duties and/or taxes on informal entries, amended.

Section 123.4 of the Customs Regulations (19 CFR 123.4) provides that, with certain stated exceptions, the inward foreign manifest required for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico otherwise than by sea, with baggage or merchandise, shall be on Customs Form 7533. However, paragraph (b) of that section provides that, for dutiable merchandise not exceeding \$250 in value entered informally on Customs Form 5119-A, the latter form may be used as a manifest in lieu of other forms.

Similarly, § 143.23 of the Customs Regulations (19 CFR 143.23) provides that, with certain stated exceptions, merchandise to be entered informally shall be entered on Customs Form 5119-A.

In lieu of using Customs Form 5119-A, which is usually prepared by a Customs officer for informal entries, an alternative procedure is currently being used in some cases at ports within the Houston, Texas, Customs region (Region VI). This alternative procedure involves the classification of imported articles directly on the commercial invoice, which contains a declaration substantially similar to the declaration statement printed on Customs Form 5119-A, signed by the importer or his agent. After the Customs officer enters the appropriate classification item number and rate of duty, he initials and dates the invoice. A Customs teller then computes the duty, places the invoice into a cash register and depresses the appropriate keys for the amount of duty and collection code. The cash register records a number on the invoice which indicates the number of the machine, the year, a unique transaction number, and the amount of duty and/or tax. This information is also reflected on the cash register tape and on a collection receipt printed by the cash register. The collection receipt, which has been previously stamped with a notice of liquidation, is given to the importer as evidence of payment of the duty and/or tax due.

When this alternative procedure is used, Customs officers are relieved of the clerical task of preparing Customs Form 5119-A, thus allowing them to devote more time to other activities. In addition, this procedure provides accurate recordation and timely collection of all duties and/or taxes due on informal entries.

Inasmuch as all ports are not equipped to utilize this new procedure and since it is most effective at border ports han-

dling a considerable number of informal entries, its use is not mandatory. Customs Form 5119-A will still be prepared for informal entries unless the district director implements this alternative procedure within his district.

In order for the district director to implement this alternative procedure, it is necessary to amend § 123.4(b) of the Customs Regulations to enable an invoice which contains a declaration substantially similar to the declaration statement printed on Customs Form 5119-A, signed by the importer or his agent, to be used as a manifest. It is also necessary to amend § 143.23 of the Customs Regulations so that an invoice which contains the same signed declaration statement may serve as an informal entry in lieu of Customs Form 5119-A.

Accordingly, §§ 123.4 and 143.23 of the Customs Regulations (19 CFR 123.4, 143.23) are hereby amended as set forth below:

Paragraph (b) of section 123.4 is revised to read as follows:

§ 123.4 Inward foreign manifest forms to be used.

(b) For dutiable merchandise not exceeding \$250 in value entered on Customs Form 5119-A, the same form may be used as a manifest in lieu of other forms. (See § 143.21 of this chapter.) The district director may also allow such merchandise to be entered informally upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent:

I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624))

Section 143.23 is amended by changing the introductory clause immediately preceding paragraph (a) to read as follows:

§ 143.23 Form of entry.

Except for the types of merchandise listed below which may be entered on the forms indicated, merchandise to be entered informally shall be entered on a Customs Form 5119-A, or, if authorized by the district director, upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent:

I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624))

Because these amendments merely conform the Customs Regulations to

present operating procedures and create no additional burden on the public, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall become effective May 7, 1975.

[SEAL]

VERNON D. ACREE,
Commissioner of Customs.

Approved: April 28, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the
Treasury.

[FR Doc. 75-11969 Filed 5-6-75; 8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Difenoquin in Schedule I

By a letter dated March 22, 1974, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs has decided that the drug difenoquin should be added to Schedule I of the Single Convention on Narcotic Drugs, 1961.

Under the provisions of section 201(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(d)), the Attorney General is required to control difenoquin under the schedule he deems most appropriate to carry out the obligations of the United States under the Single Convention. The Administrator of the Drug Enforcement Administration has determined that because there is currently no accepted medical use for difenoquin in treatment in the United States, it should be controlled in Schedule I of the Act.

Therefore, under the authority vested in the Attorney General by section 201(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(d)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, and in accordance with § 1308.49 of Title 21 of the Code of Federal Regulations, the Administrator hereby orders that § 1308.11(b) of Title 21 of the Code of Federal Regulations be amended as follows:

§ 1308.11 Schedule I.

(b) * * *

(16) Difenoquin	9168
(17) Dimenoxadol	9617
(18) Dimethheptanol	9618
(19) Dimethylthiambutene	9619
(20) Dioxaphetyl butyrate	9621
(21) Dipipanone	9622
(22) Ethylmethylthiambutene	9623
(23) Etonitazene	9624
(24) Etioxinidine	9625
(25) Furethidine	9626
(26) Hydroxypethidine	9627

(27) Ketobemidone.....	9628
(28) Levomoramide.....	9629
(29) Levophenacymorphan.....	9631
(30) Morpheridine.....	9632
(31) Noracymethadol.....	9633
(32) Norlevorphanol.....	9634
(33) Normethadone.....	9635
(34) Norpipanone.....	9636
(35) Phenadoxone.....	9637
(36) Phenapromide.....	9638
(37) Phenomorphan.....	9647
(38) Phenoperidine.....	9641
(39) Piritramide.....	9642
(40) Proheptazine.....	9643
(41) Properidine.....	9644
(42) Propiram.....	9649
(43) Racemoramide.....	9645
(44) Trimeperidine.....	9646

EFFECTIVE DATES

1. **Registration.** Any person who manufactures, distributes, imports or exports difenoxin, or who engages in research or conducts instructional activities with respect to difenoxin, or who proposes to engage in such activities, shall obtain a registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before July 1, 1975.

2. **Security.** Difenoquin must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), 1301.73, 1301.74(a), 1301.75, and 1301.76 of Title 21 of the Code of Federal Regulations on or before July 1, 1975. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. **Labeling and Packaging.** All labels on commercial containers of, and all labeling of difenoxin, packaged after November 1, 1975, shall comply with the requirement of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any "manufacturer", as defined in section 102(14) of the Controlled Substances Act, 21 U.S.C. 802(14), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. **Quotas.** All persons required to obtain quotas shall submit applications pursuant to section 1303.22 of Title 21 of the Code of Federal Regulations on or before July 1, 1975.

5. **Inventory.** Every registrant required to keep records who possesses any quantity of difenoxin shall take an inventory, pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of difenoxin on hand on July 1, 1975.

6. **Records.** All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on difenoxin commencing on the date on which the inventory of difenoxin is taken.

7. **Reports.** All registrants required to file reports with the Drug Enforcement Administration pursuant to §§ 1304.37-1304.41 of Title 21 of the Code of Federal Regulations shall report on the inventory

taken under paragraph 5 above and on all subsequent transactions.

8. **Order forms.** Each distribution of difenoxin on or after July 1, 1975, shall utilize an order form pursuant to Part 1305 of Title 21 of the Code of Federal Regulations except as permitted in § 1305.03 of that title.

9. **Importation and exportation.** All importation and exportation of difenoxin on and after July 1, 1975, shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. **Criminal liability.** Pursuant to Title 21 of the Code of Federal Regulations, § 1308.49, the Administrator, Drug Enforcement Administration hereby orders that any activity with respect to difenoxin, not authorized by, or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after June 1, 1975, shall be unlawful, except that any person who is not now registered to handle these substances but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with difenoxin between the date on which this order is published and the date on which he obtains or is denied registration.

11. **Other.** In all other respects, this order is effective on June 1, 1975.

Dated: May 1, 1975.

JERRY N. JENSON,
Deputy Administrator,
Drug Enforcement Administration.

[FR Doc. 75-11885 Filed 5-2-75; 10:07 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 147]

PART 1-9—PATENTS, DATA, AND COPYRIGHTS

Allocation of Rights in Inventions

This amendment of the Federal Procurement Regulations makes changes in Subpart 1-9.1, Patents, which was published in the Federal Procurement Regulations (38 FR 23782, September 4, 1973). The regulations were developed in cooperation with the Committee on Government Patent Policy, Federal Council for Science and Technology. The regulations implement the revised Presidential Statement on Government Patent Policy (36 FR 16887, August 26, 1971). As originally published, interested parties were invited to submit comments. This opportunity to comment was considered appropriate, since the draft which was originally furnished for comment was extensively modified and enlarged. On February 28, 1974, the effective date provision of the regulations was canceled. The regulations now have been revised in the light of the comments received and a new effective date has been established.

The table of contents for Part 1-9 is amended by the addition of the following new entries:

Subpart 1-9.1—Patents

Sec.

- 1-9.109 Administration of Patent Rights clauses.
- 1-9.109-1 Patent rights follow-up.
- 1-9.109-2 Follow-up by contractor.
- 1-9.109-3 Follow-up by Government.
- 1-9.109-4 Remedies.
- 1-9.109-5 Conveyance of invention rights acquired by the Government.
- 1-9.109-6 Retention of greater rights.

Subpart 1-9.1 is revised as follows:

Subpart 1-9.1—Patents

§ 1-9.100 Scope of subpart.

This subpart sets forth policies, procedures, and contract clauses with respect to inventions made in the course of or under a contract or subcontract entered into with or for the benefit of the Government where a purpose is the conduct of experimental, developmental, or research work. The policies, procedures, and contract clauses may also be used in grants, agreements, and other arrangements as agencies deem appropriate.

§§ 1-9.101-1-9.106 [Reserved]

§ 1-9.107 Patent rights under contracts for research and development.

§ 1-9.107-1 General.

(a) **Introduction.** On August 23, 1971, the President issued a Statement of Government Patent Policy (36 FR 16887, August 26, 1971) applicable to all executive departments and agencies, revising a prior Statement of Policy (28 FR 10943, October 12, 1963). Essentially, the goals of this Statement are to provide criteria for determining the allocation of rights in inventions resulting from federally sponsored research and development contracts, to promote their expeditious development so that the public can benefit from early civilian use of the inventions, and to ensure their continued availability. In applying this regulation, agency heads must weigh both the need for incentives to draw forth private initiatives, and the need to promote healthy competition in industry. Consistent with the FPR system, agencies may implement and supplement this subpart.

(b) **Applicable statutes.** Except to the extent that agencies are governed by specific statutes or by any treaty or agreement between the United States and any foreign country that are inconsistent with this subpart, agencies shall follow the provisions of this subpart, including the use of the prescribed clauses. Modifications to the prescribed clauses are permissible to the extent that these clauses are inconsistent with the requirements of statutes, treaties, or agreements.

(c) **Co-sponsored, cost sharing, or joint venture research.** The provisions of this subpart are not mandatorily applicable to co-sponsored, cost sharing, or joint venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract.

However, agencies are encouraged to follow the provisions of this subpart to the extent practicable.

(d) *Background patent rights.* Nothing in this subpart is intended to preclude the use of appropriate contract provisions concerning rights in contractor's background patents.

§ 1-9.107-2 [Reserved]

§ 1-9.107-3 Policy.

(a) The Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract where:

(1) A principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

(2) A principal purpose of the contract is for exploration into fields which directly concern the public health, public safety, or public welfare; or

(3) The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the retention of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) The services of the contractor are:

(i) For the operation of a Government-owned research or production facility; or

(ii) For coordinating and directing the work of others.

In exceptional circumstances the contractor may retain greater rights than a nonexclusive license at the time of contracting where the head of the department or agency certifies that such action will best serve the public interest. Greater rights may also be retained by the contractor after the invention has been identified where the head of the department or agency determines that the retention of such greater rights is consistent with the intent of this paragraph (a) and is either a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or that the Government's contribution to the invention is small compared to that of the contractor. Where an identified invention made in the course of or under the contract is not directly related to a principal purpose of the contract, greater rights may also be retained by the contractor under the criteria of (c), below.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government and the work called for by the contract

is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally retain the principal or exclusive rights throughout the world in and to any resulting inventions.

(c) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in (b), above, the allocation of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy, taking particularly into account the intentions of the contractor to bring the invention to a point of commercial application and the guidelines of (a), above, provided that the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to retain at the time of contracting greater rights than a nonexclusive license.

(d) In the situations specified in (b) and (c) of this section, when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals.

(e) Where the principal or exclusive rights in an invention remain in the contractor, he should agree to provide written reports at reasonable intervals, when requested by the Government, on the commercial use that is being made or is intended to be made of inventions made under Government contracts.

(f) Where the principal or exclusive rights in an invention remain in the contractor, unless the contractor, his licensee, or his assignee has taken effective steps within 3 years after a patent issues on the invention to bring the invention to the point of practical application, or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable under the circumstances.

(g) Where the principal or exclusive rights to an invention are retained by the contractor, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable in the circumstances (i) to the extent that the invention is required for public use by governmental regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii)

for other public purposes stipulated in the contract.

(h) Whenever the principal or exclusive rights in an invention remain in the contractor, the Government shall normally acquire:

(1) At least a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the agency head or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and

(2) The right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the agency head or his designee determines it would be in the national interest to acquire the right; and

(3) The principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(i) Whenever the principal or exclusive rights in an invention are acquired by the Government, there may be reserved to the contractor a revocable or irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the world; an agency may reserve the right to revoke such license so that it might grant an exclusive license when it determines that some degree of exclusivity may be necessary to encourage further development and commercialization of the invention. Where the Government acquires the principal or exclusive rights to an invention and does not elect to secure a patent in a foreign country, the contractor may retain such rights in any foreign country in which he elects to secure a patent, subject to the Government's rights set forth in (h) of this section.

(j) Nothing in this subpart shall be construed to confer immunity upon any person from the antitrust laws or from a charge of patent misuse, and no person shall be immune from the operation of State or Federal law by reason of the retention and use of rights pursuant to this subpart.

§ 1-9.107-4 Procedures.

(a) *Selection of Patent Rights clause.*

(1) Whenever a contract which is to be performed in the United States, its possessions, Puerto Rico, or the District of Columbia has as a purpose the conduct of experimental, developmental, or research work, the agency shall apply the policy in § 1-9.107-3 to the contracting situation and shall include in the contract a Patent Rights clause from §§ 1-9.107-5 or 1-9.107-6. The clauses in § 1-9.107-5 shall be used as appropriate in contracts with industrial concerns or in contracts with nonprofit organizations calling for developmental work. The clauses specified in §§ 1-9.107-5 or 1-9.107-6 may be used in contracts calling for basic or applied research with

nonprofit organizations. Solicitations shall provide offerors with an opportunity to show that the selected clause proposed for a contract is inappropriate for a particular procurement situation. In no event will contractors be asked to state their willingness to grant the Government principal or exclusive patent rights prior to a determination that proposals of equivalent merit have been presented.

(2) The Patent Rights clause in § 1-9.107-5(a), except as otherwise provided in § 1-9.107-6(a), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract falls within § 1-9.107-3(a). This clause provides that the Government shall acquire title, under certain circumstances, to inventions made in the course of or under the contract subject to the reservation of nonexclusive license rights to the contractor. The contractor may retain greater rights than a nonexclusive license after an invention has been identified if the agency determines that the criteria of § 1-9.109-6 are met. When the agency head or his duly authorized designee determines that exceptional circumstances exist as provided for in § 1-9.107-3(a), paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(a) may be appropriately modified so that the contractor retains greater rights than a nonexclusive license concerning all or specific inventions.

(3) The Patent Rights clause in § 1-9.107-5(b) shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within § 1-9.107-3(a) but is within § 1-9.107-3(b). This clause provides that title to any inventions resulting from the contract remains in the contractor subject to the acquisition of certain specified rights by the Government.

(4) The Patent Rights clause in § 1-9.107-5(c), except as otherwise provided in § 1-9.107-6(b), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within §§ 1-9.107-3(a) or (b), but is within § 1-9.107-3(c). The clause in § 1-9.107-5(c) provides that the allocation of rights in inventions resulting from the contract shall be deferred until after an invention has been identified. When the agency determines pursuant to its regulations that a special situation exists, paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(c) may be modified so that the contractor retains greater rights than a nonexclusive license.

(5) A short form Patent Rights clause in § 1-9.107-6(a) or (b) may be used by the agency instead of the clause in § 1-9.107-5(a) or (c), respectively, where the contract calls for basic or applied research and the contractor is a nonprofit organization for other than the operation of a Government-owned research or production facility. These clauses are not appropriate for use where the agency head determines that the contractor is

entitled to retention of greater rights upon a finding that exceptional circumstances as provided for in § 1-9.107-3(a) are present or where the contract falls within the special situations criteria of § 1-9.107-3(c). In either event, a Patent Rights clause in § 1-9.107-5, appropriately modified, shall be used.

(b) *Record of decisions.* Agencies shall record the basis for the following actions: (1) Selection of a Patent Rights clause; (2) finding of exceptional circumstances in § 1-9.107-3(a) or of special situations in § 1-9.107-3(c); (3) retention of greater rights pursuant to § 1-9.109-6; and (4) determinations under §§ 1-9.107-4(c) and (d).

(c) *License for the Government, States, and municipal governments.* The policy set forth in § 1-9.107-3(h) (1) provides that the Government shall normally acquire a paid-up license in any invention resulting from the contract for the Government, States, and municipal governments. Paragraph (c)(1) in the Patent Rights clauses in § 1-9.107-5 sets forth such a license. When the agency determines that it would not be in the public interest in a particular contracting situation to acquire a license for the Government of the scope in paragraph (c)(1), this paragraph may be appropriately modified. The agency head or his duly authorized designee may determine at the time of contracting that it would not be in the public interest to acquire such a license for States and municipal governments or may reserve the right to make this determination after the invention has been identified. When the determination is made or the right to make the determination is reserved, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the appropriate paragraph in § 1-9.107-5(d).

(d) *Right to sublicense foreign governments.* Paragraph (c) of the Patent Rights clauses in § 1-9.107-5 does not provide the Government with the right to grant a sublicense in any inventions resulting from the contract to any foreign government pursuant to any treaty or agreement. The agency head or his duly authorized designee may determine at the time of contracting that it would be in the national interest to acquire this right, or he may reserve the right to make this determination after the invention has been identified. When the agency head makes or reserves the right to make this determination, the appropriate sentence in § 1-9.107-5(e) shall be included as part of paragraph (c) in the Patent Rights clauses of § 1-9.107-5.

(e) *Minimum rights to contractor.* Paragraph (d) of the Patent Rights clauses of § 1-9.107-5 specify the minimum rights retained by the contractor in inventions made in the course of or under the contract. Where appropriate, the agency may modify this Minimum Rights provision, whereby, the contractor reserves:

(1) A *revocable*, nonexclusive, royalty-free license in the inventions, in which case paragraph (d) of § 1-9.107-5(a) shall be included in the Patent Rights clauses in § 1-9.107-5;

(2) A *revocable*, nonexclusive, royalty-free license in the inventions only upon request by the contractor for reservation of such a license, in which case paragraph (d)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with paragraph (d)(1) in § 1-9.107-5(f);

(3) An *irrevocable*, nonexclusive, royalty-free license in the inventions, in which case paragraph (d) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with paragraph (d) in § 1-9.107-5(g); or

(4) An *irrevocable*, nonexclusive, royalty-free license in inventions constructively reduced to practice prior to the effective date of the contract, in which case paragraph (d)(4) of § 1-9.107-5(h) shall be added to the Patent Rights clauses in § 1-9.107-5.

(f) *Subcontracts.* (1) The policy expressed in § 1-9.107-3 is applicable to prime contracts and to subcontracts regardless of tier. The appropriate Patent Rights clause prescribed by this subpart shall be included in all subcontracts having as a purpose the conduct of experimental, developmental, or research work. In general, the Patent Rights clause in the prime contract, with the exception of the withholding provision, will be appropriate for inclusion in such subcontracts. Whenever the prime contractor or a subcontractor considers the inclusion of the Patent Rights clause of the prime contract in a subcontract to be inconsistent with the policy expressed in § 1-9.107-3, or a subcontractor refuses to accept a Patent Rights clause in his subcontract, the matter shall be referred to the agency contracting officer for resolution prior to the award of the subcontract. Upon such referral, the same considerations and procedures followed by the contracting officer in selecting the Patent Rights clause included in the prime contract shall be used in selecting the Patent Rights clause to be included in the subcontract.

(2) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(g) *Publication of invention disclosures.* The Patent Rights clauses of § 1-9.107-5 and § 1-9.107-6 specify in paragraph (e)(4) and (b)(2), respectively, that the Government may duplicate and disclose invention disclosures reported under the contract. However, the publication of the information in an invention disclosure by any party before the filing of a patent application may create a bar to the filing of foreign patent applications. The agency may restrict the publication of such information by the contractor in order to protect the interests of the Government or the contractor in obtaining foreign patents by adding the paragraph prescribed by § 1-9.107-5(1)(2) as a consecutively-numbered paragraph after paragraph (e)(4) of the clauses of § 1-9.107-5, and after paragraph (b)(2) of the clauses of § 1-9.107-6. Where the contractor has been authorized to file foreign patent applications, the agency may desire to

restrict its publication of the information in the related invention disclosure in order to protect the filing of such foreign applications by the contractor. In this event, the sentence in § 1-9.107-5 (1) (1) should be added to paragraph (e) (4) of the Patent Rights clauses in § 1-9.107-5, and to paragraph (b) (2) of Patent Rights clauses in § 1-9.107-6.

(h) *Deviations.* Any departures from the policy, procedures, and clauses of this subpart shall be subject to the provisions of § 1-1.009.

§ 1-9.107-5 Clauses for domestic contracts (long form).

(a) *Patent Rights clause—Acquisition by the Government.* When the agency has determined that a contract falls within § 1-9.107-4(a) (2), the following clause shall be included in the contract.

PATENT RIGHTS—ACQUISITION BY THE GOVERNMENT

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Allocation of principal rights.* (1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (b) (2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for determination whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e) (2) (1) of this clause, or not later than 3 months thereafter, or such longer

period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(c) *Minimum rights acquired by the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments;

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances;

(3) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(4) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, safety or welfare needs, or for other public purposes stipulated in this contract;

(5) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(6) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(7) Agrees to provide for the Government's paid-up license pursuant to paragraph (c) (1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c) (3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum rights to the Contractor.* (1) The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The

license shall be transferable only with approval of the agency except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license retained pursuant to paragraph (d) (1) of this clause may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101-4.103-3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101-4.104-3. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified at the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d) (2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days (or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor) after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention, identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports¹ at least every 12 months from the date of the contract listing Subject Inventions for that period and certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been

¹ Agency may specify form.

followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) A final report within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e) (2) (ii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1) (i) or (1) (ii) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(ii) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes Clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions if the Contractor refuses or the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e) (1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment (Not applicable to Subcontracts).* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceed \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e) (1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e) (2) (i) of this clause; or

(iii) Deliver acceptable interim reports pursuant to paragraph (a) (2) (ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i) (5) of this clause.

The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e) (2) (i) of this clause, and an acceptable final report pursuant to (e) (2) (iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer, the Contractor shall include this Patent Rights clause modified to identify the parties in any subcontract hereunder if a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:

(i) Shall promptly submit a written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his con-

tract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights Clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e) (2) (iii) of this clause.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(b) *Patent Rights clause—Retention by the Contractor.* When the agency has determined that a contract falls within § 1-9.107-4(a)(3), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Retention by the Contractor", paragraph (b) of that clause shall be replaced by the following paragraph (b), and the following paragraphs (j) and (k) shall be added:

(b) *Allocation of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e) (2) (i) of this clause, subject to the rights obtained by the Government in paragraph (e) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b) (1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b)(2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for and prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership of the invention.

(j) *Filing of domestic patent applications.*

(1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. _____ (or Grant No. _____) awarded by (Identify the agency).";

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly executed and approved instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain

principal domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.*

(1) With respect to each Subject Invention in which the Contractor elects to retain principal rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English version of the foreign application without additional compensation.

(c) *Patent Rights clause—Deferred.*

When the agency has determined that a contract falls within § 1-9.107-4(a)(4), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Deferred" and paragraph (b) of that clause shall be replaced with the following paragraph (b):

(b) *Allocation of principal rights.* (1) *Assignment to the Government.* After a Subject Invention is identified, the Contractor agrees to assign to the Government the entire right, title, and interest therein throughout the world except to the extent that greater rights are retained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(d) *License rights of States and municipal governments.*

(1) When the agency head or his duly authorized designee determines at the

time of contracting that it would not be in the public interest to acquire a paid-up license in inventions made in the course of or under the contract for States and domestic municipal governments, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(2) When the agency head or his duly authorized designee decides to reserve the right to make the determination that it would not be in the public interest to acquire a paid-up license in a Subject Invention for States and domestic municipal governments until after the invention has been identified, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), States and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments.

(e) *Right to sublicense foreign governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments pursuant to any treaty or agreement, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments.

(2) When the agency head wishes to reserve the right to make the determination to sublicense foreign governments pursuant to any treaty or agreement until after the invention has been identified, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement if the agency head determines after the invention has been identified that it would be in the national interest to acquire this right.

(f) *Minimum rights to Contractor (upon request).* When the agency determines that the contractor may reserve a revocable, nonexclusive, royalty-free license in inventions made in the course of or under the contract, only upon a request by the contractor for the retention of such a license, paragraph (d)(1) of the clauses in § 1-9.107-5 shall be replaced with the following paragraph (d)(1):

(d) *Minimum rights to the Contractor.* (1) The Contractor may reserve upon request a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(g) *Minimum rights to Contractor (irrevocable).* When the agency determines that the contractor may reserve an irrevocable, nonexclusive, royalty-free license in the inventions resulting from the contract, paragraph (d) of the Patent Rights clauses of § 1-9.107-5 shall be replaced with the following paragraph (d):

(d) The Contractor reserves an irrevocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. This license shall be transferable only with approval of the agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(h) *Irrevocable license on Subject Inventions previously constructively reduced to practice.* When an agency decides that the contractor may reserve an irrevocable, nonexclusive and royalty-free license for practice in this country of each invention first actually reduced to practice under a contract which was conceived and constructively reduced to practice by the contractor prior to the effective date of execution of the contract, the following paragraph (d)(4) shall be added to paragraph (d) of the Patent Rights clauses in § 1-9.107-5.

(4) In addition to the provisions of paragraph (d)(1) of this clause, the Contractor reserves an irrevocable, nonexclusive, royalty-free license in each patent application filed in any country and any resulting patent on each Subject Invention constructively reduced to practice by the Contractor prior to the effective date of this contract. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval by the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(i) *Publication of invention disclosures.* (1) When the agency determines that it is in the best interest of the parties to withhold the release or publication of information in an invention

disclosure so that the contractor may file foreign patent applications on the invention, the following sentence shall be added to paragraph (e) (4) of the Patent Rights clauses in § 1-9.107-5 and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6:

If the Contractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon written request of the Contractor, to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

(2) When the agency determines to restrict the contractor's publication of invention disclosures prior to the filing of patent applications, the following paragraph should be added as a consecutively numbered paragraph to paragraph (e) of the Patent Rights clauses in § 1-9.107-5 and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6:

() In order to protect the patent interest of the Government or the Contractor, the Contractor shall obtain the written approval of the Contracting Officer prior to the release or publication of the information in any Subject Invention disclosure by the Contractor or other parties acting on his behalf.

§ 1-9.107-6 Clauses for domestic contracts (short form).

(a) *Patent Rights clause—Acquisition by the Government.* The following clause may be used instead of the clause of § 1-9.107-5(a) in contracts for basic or applied research with nonprofit organizations other than for the operation of a Government-owned research or production facility.

PATENT RIGHTS—ACQUISITION BY THE GOVERNMENT (SHORT FORM)

(a) Definitions.

"Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(b) *Invention disclosures and reports.* (1) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of the invention known to the Contractor. The disclosure shall identify the contract and inventor, and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports¹ at least every 12 months from the date of the contract listing Subject Inventions for the period and certifying that all Subject Inventions have been disclosed or that there are no such inventions and

(iii) An acceptable final report¹ within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(2) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(c) *Allocation of principal rights.* (1) The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (c) (2) and (d) of this clause.

(2) The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (b) (1) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract shall be subject to the provisions of paragraph (c) "Minimum rights acquired by the Government" of the clause in 41 CFR 1-9.107-5(a), and to the reservations and conditions deemed appropriate by the agency.

(d) *Minimum rights to the Contractor.* The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. Revocation shall be in accordance with the procedure of the clause in 41 CFR 1-9.107-5 (d) (2) and (3).

(e) *Employee and Subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers;

(2) Insert in each subcontract having experimental, developmental, or research work as one of its purposes provisions making this clause applicable to the Subcontractor and his employees; and

(3) Promptly notify the Contracting Officer of the award of any such subcontract by providing him with a copy of the subcontract and any amendments thereto.

(b) *Patent Rights clause—Deferred (short form).* This clause may be used instead of the clause of § 1-9.107-5(c) in contracts for basic or applied research with nonprofit organizations. When the agency determines that a contract falls within § 1-9.107-3(c) and that a short form Patent Rights clause is to be used pursuant to § 1-9.107-4(a) (5), the Patent Rights clause set forth in § 1-9.107-6(a) shall be included in the contract except that the name of the clause shall be changed to "Patent Rights—Deferred (short form)"; and paragraph (c) (1) of

¹ Agency may specify a form.

that clause shall be replaced by the following paragraph (c) (1):

(1) After a Subject Invention is identified, the Contractor agrees to assign to the Government the entire right, title, and interest therein throughout the world except to the extent that rights are retained by the Contractor under paragraphs (c) (2) and (d) of this clause.

§ 1-9.107-7 Clause for foreign contracts.

A Patent Rights clause shall be included in every contract having as one of its purposes the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clauses authorized for domestic contracts in §§ 1-9.107-5 and 1-9.107-6 may be used or replaced by any other clause tailored to meet the requirements peculiar to the foreign procurement.

§ 1-9.108 [Reserved]

§ 1-9.109 Administration of Patent Rights clauses.

§ 1-9.109-1 Patent rights follow-up.

It is important that the Government and the contractor know and exercise their rights in inventions conceived or actually reduced to practice in the course of or under Government contracts in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having Patent Rights clauses should be so administered that:

- (1) Inventions are identified, disclosed, and reported as required by the contract clauses;
- (2) The rights of the Government in such inventions are established;
- (3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;
- (4) The filing of patent applications is documented by formal instruments such as licenses or assignments; and
- (5) Expeditious commercial utilization of such inventions is achieved.

§ 1-9.109-2 Follow-up by contractor.

Each contractor shall establish and maintain effective procedures to ensure that inventions made under the contract are identified, disclosed, and when appropriate, patent applications filed, and that the Government's rights therein are established and protected. When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a Patent Rights clause, a post-award orientation conference or letter should be used by the Government to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing inventions.

§ 1-9.109-3 Follow-up by Government.

Each Government agency shall undertake to ensure compliance by the contractor with the obligations of the Patent Rights clause of the contract. This effort should be directed primarily toward contracts and subcontracts about which there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spotchecked when feasible. These follow-up activities may include:

- (1) Reviewing technical reports submitted by the contractor;
- (2) Checking sources for patents issued to the contractor in fields related to this Government contracts;
- (3) Interviewing contractor personnel regarding work under the contract, observing the work on site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract; and
- (4) Interviewing agency technical personnel in contracts under their cognizance.

§ 1-9.109-4 Remedies.

If the contractor operating under the Patent Rights clauses of § 1-9.107-5 fails to establish, maintain, or follow effective procedures for identifying and disclosing inventions as required by the Patent Rights clause or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination books, records and documents relating to inventions in the same field of technology as the contract to enable an agency determination of whether there are such inventions, and may invoke the withholding of payments provision. Further, the contracting officer may invoke the withholding of payments provision if the contractor fails to disclose an invention deemed by the agency to be a Subject Invention.

§ 1-9.109-5 Conveyance of invention rights acquired by the Government.

(a) Where the Government acquires the entire right, title, and interest in an invention pursuant to a contract, assignments are required from the inventor to the contractor and from the contractor to the Government, or from the inventor to the Government with the consent of the contractor, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The optional form of assignment set forth hereinafter provides the complete chain of title in a single instrument and may be used to convey title to the Government. Alternatively, if separate assignments are used, both documents shall be forwarded simultaneously to the agency for recording.

ASSIGNMENT

Inventor(s): _____
Contractor: _____
Contracting Government Agency: _____

Contract No.: _____
Application Title: _____
Contractor's Invention Docket No.: _____
Agency Invention Docket No.: _____
Serial No.: _____ Filing Date: _____
Date(s) Inventor(s) Executed Oath: _____

The undersigned Inventor(s), in recognition of his (their) obligation as employee(s) of the Contractor to assign inventions to the Contractor, and pursuant to the obligations of the Contractor to the Government under the above contract hereby assigns (assign) to the United States of America, as represented by the above-identified agency, the entire right, title, and interest in and to each invention disclosed and claimed in the above U.S. patent application and any substitution, division, continuation-in-part, or continuation of such patent application and any application for reissue of any patent resulting from such patent application, subject to the reservation of the following license, if any, to the Contractor.

The license reserved to the Contractor shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the agency except when transferred to the successor of that part of the Contractor's business to which such invention pertains.

The Inventor(s) further agrees (agree) to assist the Contractor and the Government upon request by furnishing any available information and documents, performing all acts, and doing all things which may be reasonably necessary to make this assignment effective.

The Contractor joins in and agrees to this assignment and except for the above reservation of a license, if any, relinquishes and assigns the entire right, title, and interest in and to such inventions, and further agrees to furnish to the Government upon request any available information and documents necessary for the prosecution of the above-identified application for patent.

Signed this _____ day of _____, 19____

[SEAL] _____

(Inventor)

Attest: _____

Repeat above for each inventor.

Signed this _____ day of _____, 19____

(Contractor's Official and Title)

Attest: _____

Accepted and agreed to on behalf of the Government

(Agency Official)

(Date)

(b) When the clause of § 1-9.107-5

(b) is included in a contract or when a party retains title to an identified invention and the right to file a patent application pursuant to a greater rights determination of § 1-9.109-6, the optional form of confirmatory instrument set forth hereinafter is approved for use by the contractor or by the party retaining title.

CONFIRMATORY INSTRUMENT

(License to the Government)

Application for: _____

(Title of invention)

Inventor(s): _____

Serial No.: _____ Contract No.: _____

Filing Date: _____ Contractor: _____
 Filing Date: _____ Contractor: _____
 The invention identified above is a "Subject Invention" under Patent Rights clause,
 (Identify clause)
 () included in Contract No. _____
 (date)
 with _____
 (specify agency)

This document is confirmatory of the paid-up license granted to the Government in this invention, patent application, and any resulting patent, and all other rights acquired by the Government under the referenced contract.

It is understood and agreed that this document does not preclude the Government from asserting rights under the provisions of said contract or of any other agreement between the Government and the Contractor, or any other rights of the Government with respect to the above-identified invention.

The Government is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

Signed this _____ day of _____, 19____

[SEAL] _____
 Applicant or Assignee (Recorded)
 By _____
 ATTEST: _____
 Business Address _____

(c) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register and/or documented in the Governmental Register maintained by the U.S. Patent and Trademark Office pursuant to Executive Order 9424, February 18, 1944. Such documents shall be sent to the Commissioner of Patents and Trademarks, Attention: Assignment Branch, Washington, DC 20231, and when the document is to be recorded in the Statutory Register, shall be accompanied by the required fee. When the document is recorded in the Statutory Register, the Patent and Trademark Office places a copy of this recording in the Governmental Register. If the agency does not have the document recorded in the Statutory Register, it shall send two copies of the document to the Commissioner of Patents and Trademarks and request that these documents be filed in a designated section of the Governmental Register. The Governmental Register contains several sections including a secret, departmental, and public section. The secret section is for applications bearing a security classification; the departmental section is for documents which are available to the Government and to the public only upon approval of the Government agency; and the public section permits access to the public.

§ 1-9.109-6 Retention of greater rights.

(a) *Request for the retention of greater domestic rights.* A contractor's request for a determination that he retain greater domestic rights in an identified invention under the Patent Rights clauses of § 1-9.107-5 (a) or (c) or § 1-9.107-6 shall be submitted in writing to the agency.

(1) The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The nature and extent of the rights desired;

(iv) A description of the development, risk capital and expense, and time required to bring the invention to the point of practical application;

(v) A statement of the contractor's plans and intentions to bring the invention to the point of practical application including:

(A) If further development and marketing are to be conducted by the contractor, a description of the facilities, personnel, and marketing outlets available for that purpose, and the extent to which such development is to be undertaken by the contractor or others on his behalf and/or;

(B) If licensing of the invention is intended, a brief description of the contractor's licensing program; and

(vi) A statement, where the invention falls within § 1-9.107-3(a), of the contractor's contribution when the contention is made that the Government's contribution to the invention is small compared to his contribution.

(2) Agencies may request additional information which would facilitate a determination that greater rights should be retained by the contractor. Illustrations of such items of information include the following:

(i) The relationship of the invention to a principal purpose of the contract;

(ii) Any facts or information known to the contractor about whether the invention is intended to be developed by the Government for commercial use or is to be required for such use by governmental regulation;

(iii) The relationship, if any, of the invention to the public health, safety, or welfare; and

(iv) The field of science and technology of the invention and whether the Government has been the principal developer of this field.

(3) The contractor's employee(s) who made an invention in the course of or under a contract may also request, with proper authorization from his employer, a determination that he retain greater rights whenever the contract so provides. A copy of the authorization of the contractor-employer should be submitted with the employee-inventor's request for such a determination. In submitting the information required for a determination for the retention of greater rights as provided in § 1-9.109-6(a) (1), and in applying the other provisions of this paragraph, the term contractor shall be understood to also mean the employee-inventor.

(b) *Reimbursement of costs for filing patent applications.* In order to protect the interest of the Government and the

party submitting a request for a determination that greater rights be retained, the filing of a United States patent application prior to the agency's determination is permissible. If an application on a Subject Invention is filed during the pendency of the determination, or within 60 days prior to the receipt of a request by the agency, the agency shall reimburse the party filing the application for the reasonable filing costs and for any patent prosecution as may have occurred as provided by § 1-15.205-26 or § 1-15.309-22. Whenever such costs are not covered by § 1-15.205-26 or § 1-15.309-22, the agency may nevertheless reimburse the party causing the application to be filed for the reasonable costs of such filing and for any patent prosecution that may have occurred, subject to the availability of funds, provided:

(1) The agency determines that the party is not entitled to the retention of greater rights which are coextensive with the party's request; and

(2) Prior to reimbursement the party requesting such determination assigns the application to a Government agency and the agency accepts the assignment of the application.

(c) *Agency consideration.* The agency shall consider each request for a determination for the retention of greater domestic rights which was submitted within the period specified in the Patent Rights clause and shall make the determination in accordance with the criteria set out in paragraphs (d) or (e) of this section, as applicable.

(d) *Criteria for a determination for the retention of greater rights—Acquisition by the Government clause.* When the request for a determination for the retention of greater rights relates to an invention reported under the Patent Rights clause of § 1-9.107-5(a) or § 1-9.107-6(a):

(1) The requesting party may retain greater rights regardless of whether the invention is or is not directly related to a principal purpose of the contract when the agency finds that the invention comes within the criteria of § 1-9.107-3(a) (1) through (4); and

(i) The retention of greater rights is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(2) The requesting party also may retain greater rights when the agency finds that:

(i) The invention is not directly related to a principal purpose of the contract and does not come within the criteria of § 1-9.107-3(a) (1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(e) *Criteria for a determination for the retention of greater rights—Deferred*

clause. When the request for a determination for the retention of greater rights relates to an invention reported under the Patent Rights clause of § 1-9.107-5(c) or § 1-9.107-6(b).

(1) The requesting party may retain greater rights where the agency finds:

(i) The invention does not come within the criteria of § 1-9.107-3(a) (1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(2) The requesting party may retain greater rights when an agency finds that the invention comes within the criteria of § 1-9.107-3(a) (1) through (4); and

(i) The retention of greater rights is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(f) *Agency determination—Domestic rights.* (1) The agency shall notify the party requesting a determination for the retention of greater rights of its decision. If the agency's determination is not co-extensive with the party's request, the agency shall inform the party of the reasons on which the final action is based.

(2) Where the determination provides for the requesting party to retain title, the determination shall require that a domestic patent application be filed on the invention by the requesting party, and the following provisions shall apply:

(i) The application shall be filed within 6 months from the date of the determination, or such longer period as may be authorized in writing by the agency for good cause shown in writing by the requesting party;

(ii) For each patent application filed, the party shall:

(A) Within 2 months after such filing or within 2 months after the date of a determination if such patent application previously has been filed, deliver to the agency a copy of the application as filed, including the filing date and serial number;

(B) Include the following statement in the second paragraph of the specification of the application and any resulting patent: "The Government has rights in this invention pursuant to Contract No. _____ (or Grant No. _____) awarded by (identify the agency).";

(C) Within 6 months after such filing, or within 6 months after submission of the invention disclosure if the patent application has been previously filed, deliver to the agency a duly executed and approved instrument prepared by the Government fully confirmatory of all the rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(D) Provide the agency with a copy of the patent within 2 months after a patent is issued on the application; and

(E) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney to prosecute the application; and

(iii) If the requesting party fails to file an application within the prescribed time periods, decides not to continue prosecution of the application, or no longer desires to retain title, he shall convey to the Government, upon request, his entire right, title, and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the agency duly executed instruments (prepared by the Government) and, if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application.

(3) Where the determination provides for the requesting party to retain title, the determination shall be subject to a license to the Government, and the licensing and the commercial use reporting requirements of paragraph (c) "Minimum rights acquired by the Government," of the Patent Rights clauses of § 1-9.107-5. The determination normally shall also be subject to any other reservation or condition deemed to be appropriate by the agency.

(g) *Agency determination—Foreign rights.* (1) A contractor's request for a determination that he retain greater foreign rights in an invention under the Patent Rights clauses of either § 1-9.107-5 (a) or (c) or § 1-9.107-6 (a) or (b) may accompany a request for a determination that he retain greater domestic rights under § 1-9.109-6(a), or may be submitted independently thereof. The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The countries in which the requesting party intends to file a patent application; and

(iv) Other information required by the agency.

(2) If the Government determines not to file a patent application on a Subject Invention of the contractor in any foreign country, the agency may authorize the requesting party to file a patent application on the invention in such foreign country and to retain the entire right, title, and interest therein if it determines such authorization to be in the public interest, subject to the license to the Government provided in paragraph (c) of the Patent Rights clause in § 1-9.107-5(a) or § 1-9.107-6(a).

(3) Where the determination includes a requirement that the requesting party

file and prosecute a foreign patent application on the invention, the following provisions shall apply:

(i) The requesting party shall file and prosecute a patent application on the invention in (identify the foreign countries) in accordance with applicable statutes and regulations and within one of the following periods:

(A) Eight months from the date the corresponding United States patent application is filed by or on behalf of the requesting party; or if such an application is not filed, 6 months from the date of this agreement;

(B) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(C) Such longer period as may be approved by the agency;

(ii) The requesting party shall notify the agency promptly of each foreign application filed and upon written request of the agency shall furnish an English version of the foreign application without additional compensation; and

(iii) If the requesting party files or causes to be filed a patent application on a Subject Invention in any foreign country, or if a patent is obtained on such application, the party shall notify the agency, not less than 60 days before the expiration period for any action required by the foreign patent office, of any decision not to continue prosecution of the application or not to pay any maintenance fee covering the invention, and within such period shall deliver to the agency:

(A) Executed instruments granting to the Government power of attorney in the application;

(B) An English version of the application, if not previously provided, to the agency; and

(C) Upon request, a conveyance of the party's entire right, title, and interest in the invention in the foreign country, and to any corresponding patent application.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

EXPLANATION OF CHANGES

a. Subpart 1-9.1 is amended as follows:

(1) Section 1-9.100 is amended to substitute the word "policies" in lieu of "policy" in the second sentence.

(2) Section 1-9.107-1 is amended as follows:

(a) To amend § 1-9.107-1(a) to delete the penultimate sentence;

(b) To add a sentence at the end of § 1-9.107-1(c); and

(c) To add a new paragraph (d).

(3) Section 1-9.107-3 is a restatement of the 1971 Presidential Statement of Government Patent Policy except as amended as follows:

(a) To amend paragraphs (a) (3) and (4) by substituting the word "retention" in lieu of "acquisition";

(b) To amend paragraphs (a) (4), (b), and (c) by substituting the word "retain" in lieu of "acquire" in all occurrences;

(c) To amend paragraph (a) (4) by substituting the word "retained" in lieu of "acquired" in both occurrences;

(d) To further amend paragraph (a) (4) by substituting the phrase "directly related to a principal purpose" in lieu of "a primary object" in the last sentence;

(e) To further amend paragraph (c) by substituting the word "allocation" in lieu of "determination";

(f) To delete the last sentence of paragraph (d);

(g) To add new paragraphs (e), (f), and (g), and redesignate present paragraphs (e), (f), and (g) as new paragraphs (h), (i), and (j);

(h) Paragraph (i) is amended (A) to delete the words "has a right to" and substitute "acquires" in lieu of "acquire", (B) to delete the words "the Government may permit", and (C) to substitute the words "may retain" in lieu of "to acquire"; and

(i) Paragraph (j) is amended (A) to relocate the words "upon any person" and to delete the second occurrence of the word "any", (B) to substitute the words "no person shall be immune" in lieu of "the acquisition and use of rights pursuant to this subpart shall not be immunized", (C) to substitute the words "retention and use" in lieu of "source of the grant", and (D) to delete the word "such" and to add "pursuant to this subpart" at the end of the sentence.

(4) Section 1-9.107-4 is amended as follows:

(a) To amend paragraph (a) (1) by adding a reference to the District of Columbia, and by adding a new sentence at the end of the paragraph;

(b) To amend paragraph (a) (2), (A) by adding the word "that", by substituting the word "shall" in lieu of "with the option to", and by adding the words "under certain circumstances," in the second sentence, and (B) by substituting the words "so that" in lieu of "to permit", by deleting the word "to", and by substituting the word "retains" in lieu of "retain" in the last sentence;

(c) To amend paragraph (a) (3), second sentence, (A) by substituting the word "that" in lieu of "the contractor with the option to retain", (B) by substituting the word "the" in lieu of "his", (C) by adding the words "remains in the contractor", (D) by substituting the word "acquisition" in lieu of "reservation", (E) by adding the word "specified", and (F) by substituting the word "by" in lieu of "in";

(d) To amend paragraph (a) (4), second sentence, (A) by substituting the word "allocation" in lieu of "determination", and by substituting the words "deferred until" in lieu of "made by the agency", and (B) by substituting the words "so that" in lieu of "to permit", by deleting the word "to", and by substituting the word "retains" in lieu of "retain" in the last sentence of the paragraph;

(e) To amend paragraph (a) (5) by substituting the words "that the contractor is entitled to retention of" in lieu of "to grant" in the second sentence;

(f) To amend paragraph (b) (3) by adding the words "retention of" in lieu of "determinations";

(g) To amend paragraph (d), second sentence, (A) by substituting the word "this" in lieu of "a", and (B) by deleting the word "selected" in the last sentence of the paragraph;

(h) To amend paragraph (e), first sentence, (A) by adding the words "Paragraph (d) of" at the beginning of the sentence, by substituting the word "retained" in lieu of "to be obtained" and by deleting the word "any", and (B) to further revise the paragraph by substituting the words "Where appropriate, the agency may modify this Minimum Rights provision whereby" in lieu of "When the agency determines that", by deleting the word "may", and by substituting the word "reserves" in lieu of "reserve" in the second sentence;

(i) To amend paragraphs (e) (1), (2), (3) and (4) by adding the words "in which case";

(j) To further amend paragraph (e) (1) by deleting the word "selected" and by substituting the word "clauses" for "clause";

(k) To further amend paragraph (e) (2) by adding the words "reservation of";

(l) To further amend paragraph (e) (3) by substituting the word "or" in lieu of "and";

(m) To amend paragraph (g), first sentence, (A) by adding the phrases "and § 1-9.107-6" and "and (b) (2), respectively", (B) to revise the second sentence by substituting the words "paragraph prescribed by" in lieu of "provisions of", by substituting the words "as a consecutively-numbered paragraph after" in lieu of the word "to", and by adding the words "of the clauses of § 1-9.107-5, and after paragraph (b) (2) of the clauses of § 1-9.107-6" at the end of sentence, and (C) to revise the last sentence of the paragraph by adding the words "and to paragraph (b) (2) of Patent Rights clauses in § 1-9.107-6".

(5) Section 1-9.107-5 is amended as follows:

(a) To amend paragraph (a) by substituting the words "Acquisition by" in lieu of "Option in" in both occurrences in Title lines;

(b) To amend paragraph (b) of § 1-9.107-5(a) by substituting the word "Allocation" in lieu of "Disposition" in Title line;

(c) To amend subparagraph (b) (1) of § 1-9.107-5(a) by substituting the word "retained" in lieu of "obtained";

(d) To amend subparagraph (b) (2) of § 1-9.107-5(a) by adding the word "retain" in the second sentence;

(e) To amend paragraph (c) of § 1-9.107-5(a) in Title line, (A) by substituting "acquired by" in lieu of "granted to", (B) by adding the words "public", a comma, and the word "welfare" in subparagraph (c) (2) (ii), and (C) to add a new paragraph after subparagraph (c) (5);

(f) To amend subparagraph (d) (1) of § 1-9.107-5(a) by deleting the first sentence in its entirety and substituting a new one therefor, and by substituting the word "transferable" in lieu of "as-

signable" and by adding the words "when transferred" in the third sentence;

(g) To amend subparagraph (d) (2) of § 1-9.107-5(a), first sentence, (A) by adding the word "domestic" and by substituting "retained" in lieu of "reserved", (B) by deleting the words "either in whole or in part, as to the United States, its possessions, Puerto Rico, and the District of Columbia", (C) to revise the second sentence by substituting the word "that" for "the" before the word "field" and by adding the word "the" before "geographical", and (D) to revise the third sentence by substituting the word "at" in lieu of "either in whole or in part, in";

(h) To amend subparagraph (d) (3) of § 1-9.107-5(a) by adding the phrase "(or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor)";

(i) To amend subparagraph (e) (1) of § 1-9.107-5(a) by (A) adding the words "and timely disclosed" in the first sentence, (B) adding the words "or equivalent records" and the word "Subject" in the second sentence, and (C) deleting the words "resulting from this contract", also in the second sentence;

(j) To amend subparagraph (e) (2) (i) of § 1-9.107-5(a) by adding the word "shall" in the second sentence;

(k) To amend subparagraph (e) (2) (ii) of § 1-9.107-5(a) by adding the words "listing Subject Inventions for that period and";

(l) To amend subparagraph (e) (2) (iii) of § 1-9.107-5(a) by substituting the words "A" in lieu of the words "An acceptable";

(m) To amend subparagraph (e) (3) of § 1-9.107-5(a) to add the words "non-technical personnel, such as" before the word "clerical" and by adding the word "employees" after the word "clerical", and substituting the word "laborers" in lieu of "labor personnel";

(n) To amend paragraph (e) (4) of § 1-9.107-5(a) by adding the words "furnished or";

(o) To amend subparagraph (f) (1) of § 1-9.107-5(a) by substituting the word "in" in lieu of "on", the word "disclose" in lieu of "report", and the words "within 6 months after" in lieu of "at or prior to";

(p) To amend subparagraph (f) (1) (ii) "except that", by adding a period, and by starting a new paragraph by adding "(2) However,";

(q) To redesignate subparagraphs (f) (1) (ii) (A), (B), and (C) of § 1-9.107-5(a) to subparagraphs (f) (2) (i), (ii) and (iii), and to redesignate subparagraph (f) (2) to (f) (3);

(r) To amend the redesignated subparagraph (f) (3) of § 1-9.107-5(a) by relocating the parenthetical phrase;

(s) To amend subparagraph (g) (1) of § 1-9.107-5(a) by adding the words "(including laboratory notebooks)";

(t) To amend subparagraph (g) (2) of § 1-9.107-5(a) by adding the words "books (including laboratory notebooks)," "to practice", and "in the same

field of technology as the work under this contract;

(u) To amend subparagraph (g) (2) (ii) of § 1-9.107-5(a) by substituting the word "and" in lieu of "to";

(v) To amend subparagraph (h) of § 1-9.107-5(a) by adding the words "(Not applicable to Subcontracts)" to the Title line;

(w) To amend subparagraph (h) (i) of § 1-9.107-5(a) by substituting a comma in lieu of the word "and", and by adding the words ", and follow" after the word "maintain";

(x) To amend subparagraph (h) (1) (iii) of § 1-9.107-5(a) by substituting the word "acceptable" in lieu of "the";

(y) To amend subparagraph (h) of § 1-9.107-5(a) by substituting the word "withheld" in lieu of "retained" in the paragraph after subparagraph (1) (iv);

(z) To amend subparagraph (h) (2) of § 1-9.107-5(a) by substituting the words "an acceptable" in lieu of the words "and the", and by substituting the words "pursuant to" in lieu of "required by";

(aa) To amend subparagraph (1) (2) of § 1-9.107-5(a) by deleting the words "except paragraph (h) of this clause";

(bb) To amend subparagraph (1) (2) (i) of § 1-9.107-5(a) by adding the word "a" after the word "submit";

(cc) To amend subparagraph (1) (3) of § 1-9.107-5(a) by deleting the word "such" after the word "using";

(dd) To amend subparagraph (1) (5) of § 1-9.107-5(a) by adding the word "and" and by deleting the comma after the word "award" in the first sentence;

(ee) To amend subparagraph (1) (6) of § 1-9.107-5(a) by deleting the words "exert his best effort to", and by adding the words "of which he acquires knowledge in the performance of this contract";

(ff) To amend § 1-9.107-5(b) by substituting the words "Retention by" in lieu of "Option in" in both the caption line and the text;

(gg) To amend subparagraph (b) of § 1-9.107-5(b) by substituting the word "Allocation" in lieu of "Disposition" in caption line;

(hh) To amend subparagraph (b) (3) (ii) of § 1-9.107-5(b) by substituting the words "To avoid forfeiture of the patent application or patent," in lieu of the words "In such an event,";

(ii) To amend subparagraph (b) (4) of § 1-9.107-5(b) by substituting the word "and" in lieu of the comma after the words "to apply for", and by substituting the word "of" for "in" at the end of the paragraph;

(jj) To amend subparagraph (j) (2) (iii) of § 1-9.107-5(b) by inserting the words "executed and" before the word "approved" and by deleting the words ", executed, and recorded" after the word "approved", and by adding the word "filed" at the end of the sentence;

(kk) To amend subparagraph (j) (2) (v) of § 1-9.107-5(b) by adding the words "and Trademarks" to the reference to the Patent Office, and by substituting the word "agency" in lieu of "Contracting Officer";

(ll) To amend subparagraph (j) (3) of § 1-9.107-5(b) by adding the word "principal";

(mm) To amend subparagraph (k) (1) of § 1-9.107-5(b) by adding the word "principal";

(nn) To amend subparagraph (k) (1) (ii) of § 1-9.107-5(b) by adding the words "and Trademark" to the reference to the Patent Office;

(oo) To amend subparagraph (k) (2) of § 1-9.107-5(b) by substituting the word "version" in lieu of "translation";

(pp) To amend § 1-9.107-5(c) by deleting the word "determination" in both the caption line and the text;

(rr) To amend subparagraph (b) (1) of § 1-9.107-5(c) by (A) substituting "Assignment to the Government," in lieu of "Determination," (B) deleting the first sentence of the subparagraph in its entirety, (C) substituting the words "After a Subject Invention is identified," in lieu of "Where the agency determines that the Government shall have title to a Subject Invention," (D) deleting the words "upon request of the Government", "in and to each Subject Invention," (E) inserting the words "to the Government", and "therein", and (F) substituting the words "retained by the Contractor" in lieu of the word "obtained";

(ss) To amend subparagraph (b) (2) of § 1-9.107-5(c) by adding the words "provided in paragraph (d)" in the first sentence, and by adding the word "retain" in the second sentence of the subparagraph;

(tt) To amend § 1-9.107-5(f) by inserting the words "the retention of" in the text portion;

(uu) To amend subparagraph (d) (1) of § 1-9.107-5(f) by deleting the first sentence in its entirety and substituting a new one;

(vv) To amend paragraph (d) of § 1-9.107-5(g) by deleting the first sentence in its entirety and substituting a new one, by inserting the word "shall" in the second sentence, and by substituting the word "transferable" in lieu of the word "assignable" and inserting the words "when transferred" in the third sentence of the paragraph;

(ww) To amend supplemental paragraph (4) of § 1-9.107-5(h) by substituting a comma in lieu of the word "and", to substitute the words "in each patent application filed in any country and any resulting patent on" in lieu of "for practice throughout the United States, its territories and possessions, Puerto Rico and the District of Columbia of" in the first sentence, and by inserting the word "shall" in the second sentence;

(xx) To amend paragraph (1) of § 1-9.107-5(i) by inserting the words "of the parties", and "and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6", and by substituting the word "written" in lieu of "specific" in the supplemental sentence; and

(yy) To amend paragraph (2) of § 1-9.107-5(i) by inserting the words "as a consecutively numbered paragraph" and the words "and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6",

and by deleting the reference "(5)" and inserting the word "written" in the supplemental paragraph.

(6) Section 1-9.107-6 is amended as follows:

(a) To amend the Title line of § 1-9.107-6(a) by substituting the words "Acquisition by" in lieu of "Option in" in both occurrences;

(b) To amend the first sentence of § 1-9.107-6(a) by substituting the word "or" for "and", and by relocating the word "for";

(c) To amend subparagraph (b) (1) (ii) of § 1-9.107-6(a) by inserting the words "listing Subject Inventions for the period and";

(d) To amend § 1-9.107-6(a) by adding a new subparagraph designated as "(b) (2)";

(e) To amend the Title line of paragraph (c) of § 1-9.107-6(a) by substituting the word "Allocation" in lieu of "Disposition";

(f) To amend subparagraph (c) (1) of § 1-9.107-6(a) by substituting the word "retained" in lieu of "obtained";

(g) To amend subparagraph (c) (2) of § 1-9.107-6(a) by adding the word "retain" in the second sentence;

(h) To amend subparagraph (d) of § 1-9.107-6(a) by deleting the first sentence in its entirety and substituting a new one therefor;

(i) To amend subparagraph (e) (1) of § 1-9.107-6(a) by inserting the words "nontechnical personnel, such as" and the word "employees", and by substituting the word "laborers" for the words "labor personnel";

(j) To amend subparagraph (e) (2) of § 1-9.107-6(a) by adding the letters "al" to the word "development";

(k) To amend § 1-9.107-6(b) by deleting the word "determination" in the Title line and in the text portion of the section, and by substituting the word "or" in lieu of "for" in the first sentence;

(l) To amend supplemental paragraph (c) (1) of § 1-9.107-6(b) by (A) deleting the first sentence in its entirety, (B) substituting the words "After a Subject Invention is identified" in lieu of "Where the agency determines that the Government have title", (C) deleting the words "upon request of the Government", "in and to each Subject Invention" and "obtained", and (D) adding the words "to the Government", "therein", and "retained";

(7) Section 1-9.109 is amended as follows:

(a) To amend paragraph (a) by (A) redesignating the paragraph as § 1-9.109-1 and by adding the title "Patent rights follow-up", (B) deleting the first sentence in its entirety, (C) adding the words "conceived or actually reduced to practice in the course of or under Government contracts" in the second sentence, and (D) in paragraph (5) adding the word "Expeditions";

(b) To amend paragraph (b) by (A) redesignating the paragraph as § 1-9.109-2 and by adding the title "Follow-up by Contractor", (B) adding the words "disclosed, and when appropriate,

patent applications filed," in the first sentence, and (C) adding the words "by the Government" in the second sentence;

(c) To amend paragraph (c) by (A) redesignating the paragraph as § 1-9.109-3 and by adding the title "Follow-up by Government", and (B) deleting the words "which because of the nature of the work or the large dollar amount spent are likely to result in inventions which are significant in number or quality, and toward contracts and subcontracts" in the second sentence;

(d) To amend paragraph (d) by (A) redesignating the paragraph as § 1-9.109-4 and by adding the title "Remedies", and (B) adding the words "books," "in the same field of technology as the contract", and the word "provision" (2 instances);

(e) To amend paragraph (e) by redesignating the paragraph as § 1-9.109-5, and by substituting the words "acquired by the" in lieu of the word "to" in the Title line;

(f) To amend paragraph (1) of § 1-9.109-5 by redesignating as paragraph (a);

(g) To amend paragraph (a) of § 1-9.109-5 by substituting the word "acquires" in lieu of "is entitled to the conveyance of" in the first sentence, and by substituting the word "hereinafter" in lieu of "in this § 1-9.109(e)(1)" in the second sentence;

(h) To amend the Assignment Form of § 1-9.109-5(a) by (A) adding the caption "Contracting Government Agency", (B) substituting the words "the entire" in lieu of "all" in the first paragraph, (C) substituting the word "The" in lieu of "Any" and adding the word "shall" in the first sentence of the second paragraph, (D) substituting the word "transferable" in lieu of "assignable" and adding the words "when transferred" in the second sentence of the second paragraph, (E) substituting the word "this" in lieu of "the foregoing", and substituting the words "the entire" in lieu of "all", and substituting the word "right" in lieu of "rights" in the fourth paragraph, and (F) substituting "(Inventor)" in lieu of "(INVENTORS)" in the signature line, and adding the asterisk and the words "Repeat for each inventor";

(i) To amend paragraph (2) of § 1-9.109-5 by (A) redesignating the paragraph as "(b)", (B) substituting the word "retains" in lieu of "obtains", (C) substituting the word "hereinafter" in lieu of "in this § 1-9.109(e)(2)", (D) substituting the words "retaining title" in lieu of "obtaining greater rights", and (E) deleting the second and third sentences in their entirety;

(j) To amend the Confirmatory Instrument of § 1-9.109-5(b) by (A) substituting a ".", for the first occurrence of the word "and", and adding the words "and any resulting patents", (B) substituting the words "acquired by" in lieu of "reserved to", (C) substituting the word "under" in lieu of "by", (D) substituting the word "contract" in lieu of "clause" in the first paragraph, and (E) deleting the first sentence of the second paragraph in its entirety;

(k) To amend paragraph (3) of § 1-9.109-5 by (A) redesignating the paragraph as "(c)", (B) adding the words "and Trademarks" to all references to the Commissioner of Patents, (C) adding the words "and Trademark" to all references to the U.S. Patent Office, and (D) in the fifth sentence, substituting the word "several" in lieu of "three", the words "including a" in lieu of "the", and substituting "section" in lieu of "sections";

(l) To amend § 1-9.109 by deleting "1-9.109-1 to 1-9.109-5 [Reserved].";

(m) To amend § 1-9.109-6 by adding the words "Retention of", and deleting the word "determinations" in the Title line;

(n) To amend paragraph (a) of § 1-9.109-6 by inserting the words "the retention of" in the caption line, and by substituting the words "that he retain" in lieu of the word "of" in the text portion;

(o) To amend subparagraph (1)(v) of § 1-9.109-6(a) by substituting the words "and marketing are" in lieu of "is";

(p) To amend subparagraph (1)(v) of § 1-9.109-6(a) by substituting the words "licensing of" in lieu of "he intends to license" and by adding the words "is intended";

(q) To amend subparagraph (1)(vi) of § 1-9.109-6(a) by substituting the words "the contention is made" in lieu of "he contends";

(r) To amend subparagraph (2) of § 1-9.109-6(a) by substituting the word "that" in lieu of "of", and by adding the words "should be retained by the contractor";

(s) To amend subparagraph (3) of § 1-9.109-6(a) by (A) deleting the words "greater rights" in all occurrences before the word "determination", (B) adding "that he retain greater rights" in the first sentence, (C) adding the word "such" in the second sentence, and (D) adding the words "for the retention of greater rights", and the word "also" in the third sentence;

(t) To amend § 1-9.109-6(b) by deleting the words "greater rights" before the word "determination" and adding the words "that greater rights be retained" in the first sentence; and substituting the word "by" in lieu of "in" in the third sentence;

(u) To amend subparagraph (1) of § 1-9.109-6(b) by adding the words "the retention of";

(v) To amend § 1-9.109-6(c) by adding the words "for the retention of", and "which was";

(w) To amend § 1-9.109-6(d) by substituting the word "a" in lieu of "greater rights", and adding the words "for the retention of greater rights" in the Title line and the first sentence. To further revise the Title line by substituting the words "Acquisition by the" in lieu of "Option in";

(x) To amend paragraph (1) of § 1-9.109-6(d) by substituting the words "directly related to a principal purpose" in lieu of "a primary object";

(y) To amend subparagraph (1)(i) of § 1-9.109-6(d) by substituting the word "retention" in lieu of "acquisition", and by deleting the word "the";

(z) To amend subparagraph (2)(i) of § 1-9.109-6(d) by substituting the words "directly related to a principal purpose" in lieu of "a primary object";

(aa) To amend the Title line of § 1-9.109-6(e) by adding the words "a determination of the retention of", and by deleting the word "determination" after the words "greater rights." The paragraph is further revised by substituting the word "a" in lieu of "the greater rights", and by adding the words "for the retention of greater rights" in the text portion;

(bb) To amend subparagraph (2)(i) of § 1-9.109-6(e) by substituting the word "retention" in lieu of "acquisition", and by deleting the word "the";

(cc) To amend paragraph (1) of § 1-9.109-6(f) by deleting both occurrences of the words "greater rights" before the word "determination", and by adding the words "for the retention of greater rights". The paragraph is further revised by deleting the third sentence in its entirety;

(dd) To amend paragraph (2) of § 1-9.109-6(f) by substituting the words "provides for the requesting party to retain title, the determination shall require that" in lieu of "includes a requirement that the requesting party have", by adding the word "be", and substituting the words "by the requesting party, and" in lieu of the comma;

(ee) To amend subparagraph (2)(i) of § 1-9.109-6(f) by adding the words "in writing";

(ff) To amend subparagraph (2)(ii) of § 1-9.109-6(f) by adding the word "resulting";

(gg) To amend subparagraph (2)(ii) of § 1-9.109-6(f) by deleting the words "executed, and recorded" and by inserting the words "executed and" before the word "approved, and by inserting the word "filed" at the end of the sentence;

(hh) To amend subparagraph (2)(ii) of § 1-9.109-6(f) by adding the words "and Trademark", and the words "to prosecute the application";

(ii) To amend subparagraph (2)(iii) of § 1-9.109-6(f) by substituting the words "requesting party fails to file an application within the prescribed time periods," in lieu of the word "applicant";

(jj) To amend subparagraph (3) of § 1-9.109-6(f) by substituting the words "Where the determination provides for the requesting party to retain title, the determination" in lieu of "The determination of greater rights, whether requested by the contractor or by the employee-inventor", and by deleting the words "the reservation of";

(kk) To amend paragraph (1) of § 1-9.109-6(g) by (A) adding the word "contractor's", (B) adding the words "determination that he retain greater" before the word "foreign" and by deleting the word "determination" after the word "rights"; (C) substituting "that he retain greater" in lieu of the word "of" after the second occurrence of the word

"determination", and (D) substituting the word "under" in lieu of "of";

(II) To amend paragraph (2) of § 1-9.109-6(g) by substituting the word "retain" in lieu of "acquire";

(mm) To amend subparagraph (3) (i) (B) of § 1-9.109-6(g) to add the words "and Trademarks";

(nn) To amend subparagraph (3) (ii), and (3) (iii) (B) of § 1-9.109-6(g) by substituting the word "version" in lieu of "translation"; and

(oo) To amend subparagraph (3) (iii) (C) of § 1-9.109-6(g) by substituting the word "right" in lieu of "right".

b. Not cited in the Explanation of changes are minor editorial changes, cross reference changes, and changes to the Index.

Effective date. This amendment is effective June 9, 1975, but may be observed earlier.

Dated: May 1, 1975.

ARTHUR F. SAMPSON,

Administrator of General Services.

[FR Doc. 75-11896 Filed 5-6-75; 8:45 am]

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-6—SAN FRANCISCO PLAN

Extension of Time

On June 4, 1971, the Department of Labor published the San Francisco Plan (36 FR 10868). The San Francisco Plan is intended to implement the provisions of Executive Order 11246, as amended, and the rules and regulations issued pursuant thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors in the city and county of San Francisco, California. It is deemed appropriate to further extend the San Francisco Plan for an additional one year period through April 30, 1976, to provide an opportunity to review the minority employment results achieved through the San Francisco Plan for purposes of future construction industry requirements in the city and county of San Francisco. Therefore, 41 CFR 60-6.30, Appendix A of the San Francisco Plan, must be included in all invitations or other solicitations for bids on federally involved construction contracts covered by the San Francisco Plan until April 30, 1976. The goals contained in § 60-6.30, Appendix A, for the year ending April 30, 1975, will be applicable to invitations and other solicitations for bids on federally involved construction contracts covered by the San Francisco Plan until April 30, 1976, or the promulgation of a new San Francisco Plan. All invitations or other solicitations should

be revised to reflect this extension through a revised Appendix A.

Signed this 30th day of April, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

BERNARD E. DELURY,
Assistant Secretary for
Employment Standards.

PHILIP J. DAVIS,
Director, Office of Federal
Contract Compliance.

[FR Doc. 75-11967 Filed 5-6-75; 8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1212]

PART 1033—CAR SERVICE

Union Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of April, 1975.

It appearing, that due to deterioration of track facilities the Great Plains Railway Company (GP) is unable to operate over its line serving Davenport, Nebraska; that the portion of the GP's line at Davenport extending from a connection with the Union Pacific Railroad Company (UP) in the vicinity of GP survey station 3 plus 38 and GP survey station 23 plus 43.5, a total distance of 2,005 feet, is serviceable; that shippers served by this trackage of the GP are in need of continued railroad service; that the GP has agreed to permit operation by the UP over the aforementioned tracks; that the UP has consented to perform service over these tracks; that such operation by the UP over these tracks of the GP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1212 Service Order No. 1212.

(a) *Union Pacific Railroad Company Authorized to operate over tracks of Great Plains Railway Company.* The Union Pacific Railroad Company (UP) be, and it is hereby, authorized to operate over tracks of the Great Plains Railway Company (GP) between a point of connection with the UP at Davenport, Nebraska, in the vicinity of GP survey station 3 plus 38 and GP survey station 23 plus 43.5, a total distance of 2,005 feet.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., May 1, 1975.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc. 75-12005 Filed 5-6-75; 8:45 am]

Title 50—Wildlife

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Mark Twain National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on May 7, 1975.

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

ILLINOIS

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer with shotgun on the Mark Twain National Wildlife Refuge, Illinois, is permitted from November 21 through November 23, only on the area of the Gardner Division designated by signs as open to hunting. The open area, comprising 4,831 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of white-tailed deer with shotgun subject to the following conditions:

(1) A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge Designation will serve as authorization to enter the public hunting area. One hundred and fifty (150) permits will be issued following a May 14, 1975, drawing.

(2) Successful hunters will be required to check their deer through the Adams County Check Station near the division.

(3) Hunting will be from 7:30 a.m. to 4 p.m. (c.d.t.).

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR part 32 and are effective through November 23, 1975.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain
National Wildlife Refuge.

APRIL 30, 1975.

[FR Doc.75-11938 Filed 5-6-75;8:45 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DE- PARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

The purpose of this amendment is to establish commuted traveltime periods as nearly as may be practicable to cover the

COMMUTED TRAVELTIME ALLOWANCES

(In Hours)

Location covered	Served from	Metropolitan area	
		Within	Outside
Puerto Rico: Ponce.....	San Juan.....		5

(64 Stat. 561; 7 U.S.C. 2290)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendment shall become effective May 1, 1975.

Done at Washington, D.C., this 1st day of May 1975.

JAMES O. LEE, Jr.
Acting Deputy Administrator,
Plant Protection and Quarantine
Programs.

[FR Doc.75-11945 Filed 5-6-75;8:45 am]

CHAPTER IX—AGRICULTURAL MARKET- ING SERVICE (MARKETING AGREE- MENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Peach Reg. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Limitation of Shipments

This regulation requires that peaches grown in Georgia during the 1975 sea-

son, shipped to points outside of Georgia, other than those shipped in bulk to adjacent markets, meet the following requirements—Minimum grade: 85% U.S. No. 1 for May 8–August 31 period. Minimum size: 1½ inches for May 8–21 period, 1¾ inches for May 22–28 period, and 1¾ inches for May 29–August 31 period. This action is necessary to assure that peaches shipped will be of suitable quality and size in the interest of consumers and producers.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the crop and current and prospective market conditions. Shipments of peaches from Georgia are expected to begin on or about May 8, 1975. The grade and size requirements provided herein are necessary to prevent the handling, on and after May 8, 1975, of any

peaches which do not comply with such requirements, so as to provide consumers with good-quality fruit, consistent with the overall quality of the crop, in the interest of producers and consumers, pursuant to the declared policy of the act. The smaller minimum size requirements for the first part of the season reflect the fact that earlier-maturing varieties of peaches mature, on the average, at smaller sizes than do later-maturing varieties. The exception from grade, size, and inspection requirements for peaches shipped in bulk to adjacent markets follows the custom and pattern of prior years and is designed to permit the movement to those markets of peaches of such quality and sizes as are acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas.

(3) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 8, 1975. The committee held an open meeting on April 24, 1975, after giving due notice thereof, to consider supply and market conditions for fresh peaches grown in Georgia, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such peaches. Shipments of the early varieties of the current crop of peaches are expected to begin on or about May 8, 1975, and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 918.317 Peach Regulation 1.

Order. (a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period May 8 through August 31, 1975, do not grade at least 85 percent U.S. No. 1 quality: *Provided,*

That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 8 through May 21, 1975, are smaller than 1½ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent by count, of such peaches in any container in such lot, may be smaller than 1½ inches in diameter.

(3) During the period May 22 through May 28, 1975, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(4) During the period May 29 through August 31, 1975, are smaller than 1-7/8 inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1-7/8 inches in diameter.

(b) The inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in new containers, during the period specified in paragraph (a) (1) of this section.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to destinations other than in the adjacent markets during the period specified in paragraph (a) (1) of this section.

(d) When used herein, the terms "handler," "adjacent markets," "peaches," "peaches in bulk," and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the terms "U.S. No. 1" and "diameter" shall have the same meaning as when used in the revised United States Standards for Peaches (7 CFR 51.1210-51.1223).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: May 5, 1975.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-12175 Filed 5-6-75; 8:56 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

PART 1001—MILK IN THE BOSTON REGIONAL MARKETING AREA

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

PART 1015—MILK IN CONNECTICUT MARKETING AREA

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

CFR Correction

In the January 1, 1975 revised edition of 7 CFR 1000-1059, subparagraphs (1), (2), and (3) of §§ 1001.61(b), 1002.50a(c), 1004.50(b), 1015.61(b), 1036.50(c), and 1040.50(c) should be deleted.

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

CFR Correction

In the January 1, 1975 revised edition of 7 CFR Parts 1000-1059, on page 369 the following paragraphs (c) and (d) should be added to § 1040.73.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.9(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee-plant as provided by § 1040.75 and the butterfat differential provided by § 1040.74 by the total hundredweight of milk received by such handler from the cooperative association.

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class III milk price for the preceding month.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Boarding of Vessels

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), and sections 1-3, 31 Stat. 58, as amended (46 U.S.C. 163), it is proposed to amend § 4.1(c) of the Customs Regulations (19 CFR 4.1(c)), pertaining to the boarding of vessels.

Section 4.1(c) of the Customs Regulations provides that, with certain exceptions, no one may board or leave a vessel arriving from outside the Customs territory of the United States without Customs permission until Customs formalities are completed. The exceptions relate to pilots, vessel agents, consular officers, and certain Federal officials, all of whom may have functions to perform aboard the vessel regarding navigational, Customs, or certain other Government matters. These regulations were issued under the authority of 46 U.S.C. 163, which authorizes and directs the Commissioner of Customs to prescribe and enforce regulations governing the boarding of vessels arriving in the United States before such vessels have been inspected and placed in security.

In order to emphasize that the persons permitted, without Customs permission, to board or leave vessels arriving from outside the Customs territory of the United States prior to the completion of Customs formalities are permitted this privilege solely to aid in the navigation of the vessel or to aid in or perform Customs or certain other Government business, and not to conduct commercial or private business, it is proposed to amend § 4.1(c) of the Customs Regulations regarding the activities permitted aboard such vessels prior to the completion of Customs formalities.

Accordingly, it is proposed to revise paragraph (c) of § 4.1 of the Customs Regulations (19 CFR 4.1(c)) to read as follows:

§ 4.1 Boarding of vessels; cutter and dock passes.

(c) No person, with or without the consent of the master, except a pilot in connection with the navigation of the vessel, an officer of the Coast Guard, an immigration or health officer, or an agent of the vessel or consular officer exclusively for purposes relating to Customs formalities, shall go on board any vessel arriving from outside the Customs territory

of the United States until the vessel has been taken in charge by a Customs officer. Except for the purpose of reporting the arrival of the vessel as required by law (see section 4.2), no person shall leave any vessel arriving from outside the Customs territory of the United States without the permission of the district director of Customs or the Customs officer in charge until such vessel has been properly inspected by Customs and brought to the dock or anchorage at which cargo is to be unladen and until all passengers have been landed from the vessel; nor shall the master of any vessel authorize the boarding or leaving of the vessel by any person in violation of this paragraph. Every person permitted to go on board shall be subject to Customs and quarantine regulations.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than June 6, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C. during regular business hours.

VERNON D. ACREE,
Commissioner of Customs.

Approved: April 25, 1975.

DAVID R. MACDONALD,
Assistant Secretary
of the Treasury.

[FR Doc.75-11970 Filed 5-6-75; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED DRIED BEANS AND CANNED PORK AND BEANS

Grade Standards; Extension of Comment Period

This notice extends the period for comments to the notice, published February 26, 1975 (40 FR 8207 and 8209), proposing the revision of the United States Standards for Grades of Canned Dried Beans (Other than Pork and Beans) and establishing United States Standards for Grades of Canned Pork and Beans.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090,

as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different marketing levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover cost of such services.

The proposed rulemaking was published to update the current U.S. Standards for Grades of Canned Dried Beans. These standards have been revised only once, October 24, 1947, since they became effective in 1934.

A request for a 90 day extension of time for the comment period was submitted by the William Underwood Company, Westwood, Massachusetts. The William Underwood Company is a nationwide processor and distributor of various canned dried beans. The request indicated that additional time is needed to collect data and submit final comments to the proposed rulemaking.

It is determined that a reasonable extension of the comment closing date is consistent with the Department's policy to give adequate time for all persons to comment on each notice of proposed rulemaking to revise the U.S. standards. The comment period is hereby extended to July 14, 1975.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed rulemaking should file the same in duplicate, not later than July 14, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250. All written submissions made under this notice will be available at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: May 1, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.
[FR Doc.75-12008 Filed 5-6-75; 8:45 am]

Commodity Credit Corporation

[7 CFR Part 1408]

SETOFF, WITHHOLDING, AND STOP PAYMENT POLICIES

Conditions Under Which Actions Will Not Be Taken

Pursuant to the authority contained in section 4(d), 62 Stat. 1071; (15 U.S.C. 714b), notice is hereby given that Commodity Credit Corporation proposes to amend its setoff, withholding, and stop payment procedures.

The proposed amendment would delete the condition that setoff not be made

when freight bills involve shipments on commercial bills of lading, except in cases of rail carriers. This prohibition was included because of special admiralty rules of practice which have since been abolished. The Federal Rules of Civil Procedure is now applicable to maritime matters and the prohibition no longer applies.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Controller, Commodity Credit Corporation, Department of Agriculture, Washington, D.C. 20250, on or before June 6, 1975.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Controller during regular business hours (8:15 a.m.-4:45 p.m.) in room 6096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Accordingly, it is proposed that paragraph (c) of § 1408.11 (7 CFR 1408.11 (c)) be deleted and paragraphs (d), (e), (f), and (g) of § 1408.11 be redesignated (c), (d), (e), and (f) respectively.

Signed at Washington, D.C. on April 30, 1975.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 75-11946 Filed 5-6-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Exclusion From Income and Resources of Payments

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments revise § 416.1145 (Exclusions from income; order of application), add new §§ 416.1146 (Exclusions from income; provided by other statutes), and 416.1147 (Alaska Native Claims Settlement Act), amend § 416.1210 (Exclusions from resources; general), add a new § 416.1236 (Exclusions from resources; provided by other statutes), and add a new § 416.1238 (Exclusions from resources; Alaska Native Claims Settlement Act).

The proposed amendments contained herein would exclude from countable income, or countable income and resources under the supplemental security income program for the aged, blind, and disabled, program payments received under the Alaska Native Claims Settlement Act and payments received under certain statutes, other than the Social Security Act where those statutes expressly provide for such exclusion. These include payments such as those received

under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, payments to members of the Blackfeet Tribe and Gros Ventre Tribe of Indians pursuant to the provisions of Pub. L. 92-254, Indian judgment payments received subject to the provisions of Pub. L. 93-134, the value of the coupon allotment under the Food Stamp Act of 1964 in excess of the amount paid for the coupons, the value of meals provided under the National School Lunch Act as amended by Pub. L. 90-302, the value of meals and benefits provided under the Child Nutrition Act of 1966, any grant or loan to an undergraduate student as provided by the Higher Education Amendments of 1968, the \$30 a week work incentive allowance provided for in the Comprehensive Employment and Training Act of 1973, payments received by persons serving pursuant to titles II or III of the Domestic Volunteer Service Act of 1973, and benefits received under title VII of the Older Americans Act of 1965 as amended by Pub. L. 92-258.

The rules set forth in the proposed amendments to regulations relating to the exclusion of Alaska Native Claims Settlement Act payments have been applied by the Social Security Administration pending final adoption of regulations. The rules set forth in the proposed amendments to regulations relating to the exclusion for supplemental security income purposes of benefits from other programs have been applied by the Social Security Administration since January 1, 1974, in accordance with the provisions of the various Federal statutes concerned. The proposed amendments to regulations when finally adopted will be effective as of January 1, 1974.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Post Office Box 1585, Baltimore, Maryland 21203, on or before June 6, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in section 1102 (49 Stat. 647; 42 U.S.C. 1302) and section 1631(d) (1) (86 Stat. 1476; 42 U.S.C. 1383(d)(1)) of the Social Security Act, section 216 of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1902; 42 U.S.C. 4636), section 4 of Pub. L. 92-254 (86 Stat. 65; 25 U.S.C. 1264), section 7 of Pub. L. 93-134 (87 Stat. 468; 25 U.S.C. 1407), section 7(c) of the Food Stamp Act of 1964 (78 Stat. 705 as amended; 7 U.S.C. 2016(c)), section 3 of Pub. L. 90-302 (82 Stat. 117; 42 U.S.C. 1761(h)(3)), section (11) (b) of

the Child Nutrition Act of 1966 (Pub. L. 89-642; 80 Stat. 889; 42 U.S.C. 1780(b)), section 507 of Pub. L. 90-575 (82 Stat. 1063), section 111(a) of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203; 87 Stat. 849; 29 U.S.C. 821(a)), section 418 of the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113; 87 Stat. 413; 42 U.S.C. 5058), and section 709 of Pub. L. 92-258 (86 Stat. 95; 42 U.S.C. 3045(h)).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: April 18, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: May 2, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education,
and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1145 is revised to read as follows:

§ 416.1145 Exclusions from income; order of application.

(a) For the purpose of determining countable income in accordance with § 416.1115, the following income shall be excluded prior to items listed in paragraph (b) of this section:

(1) Payments or benefits provided under a Federal statute, other than title XVI of the Social Security Act, where exclusion is expressly required by such statute (§ 416.1146).

(2) Payments made under the Alaska Native Claims Settlement Act (§ 416.1147).

(b) For the purpose of determining countable income in accordance with § 416.1115, the following income shall be excluded after items listed in paragraph (a) of this section:

(1) Return or refund by any public agency of taxes on real property or food (§ 416.1149).

(2) Assistance based on need which is paid by any State or political subdivision in supplementation of benefits (§ 416.1151).

(3) Tuition and fee portions of grants, scholarships and fellowships (§ 416.1153).

(4) Home produce used for personal consumption (§ 416.1155).

(5) Infrequently or irregularly received income, unearned and earned, if such income does not exceed \$60 per quarter of unearned income and \$30 per quarter of earned income (§ 416.1157).

(6) Certain payments received for foster care (§ 416.1159).

(7) One-third of child support payments by an absent parent (§ 416.1161).

(8) Student child's earned income up to specified limits (§ 416.1163).

(9) The first \$60 per quarter of income, earned or unearned, other than income based on need (§ 416.1165).

(10) Earned income in the amount of \$195, plus one-half of the remainder of the earned income per quarter (§ 416.1167).

(11) Work expenses of the blind (§ 416.1169).

(12) Income of the blind and disabled needed to fulfill a plan for self-support (§ 416.1171).

(c) In determining the countable income in accordance with § 416.1115, the exclusions listed in paragraph (b) of this section shall apply first to unearned income, and then to earned income, where appropriate. In so applying they shall be considered in the numerical sequence in which they are listed in paragraph (b) of this section.

2. New §§ 416.1146 and 416.1147 are added to read as follows:

§ 416.1146 Exclusions from income; provided by other statutes.

Payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from income is expressly required by such statute include:

(a) Payments received under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(84 Stat. 1902, 42 U.S.C. 4636).

(b) Judgment payments to members of the Blackfeet and Gros Ventre Tribes of Indians under the provisions of Pub. L. 92-254.

(86 Stat. 65, 25 U.S.C. 1264).

(c) Indian judgment payments, under the provisions of Pub. L. 93-134 (87 Stat. 468, 25 U.S.C. 1407), awarded from the date of that act (October 19, 1973), excluding such payments when made to any tribe or group whose trust relationship with the Federal government has been terminated and for which there already existed legislation authorizing the disposition of its judgment funds; but including all funds deriving from judgments entered prior to the date of the act for which there has been no enabling legislation.

(d) The value of the coupon allotment in excess of the amount paid for the coupons under the Food Stamp Act of 1964 (78 Stat. 705, as amended, 7 U.S.C. 2016(c)).

(e) The value of assistance to children under the National School Lunch Act (60 Stat. 230, 42 U.S.C. 1751 et seq.) as amended by Pub. L. 90-302 (82 Stat. 117, 42 U.S.C. 1761(h)(3)).

(f) The value of assistance to children under the Child Nutrition Act of 1966 (80 Stat. 889, 42 U.S.C. 1780(b)).

(g) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education as provided by section 507 of the Higher Education Amendments of 1968, Pub. L. 90-575.

(82 Stat. 1063).

(h) Incentive allowances of \$30 per week received under title I of the Comprehensive Employment and Training Act of 1973.

(87 Stat. 849, 29 U.S.C. 821(a)).

(i) Benefits received under title VII of the Older Americans Act of 1965 as amended by Pub. L. 92-258 (86 Stat. 95, 42 U.S.C. 3045(h)).

(j) Payments for supportive services or reimbursement of out-of-pocket expenses under titles II or III of the Domestic Volunteer Service Act of 1973 (87 Stat. 413, 42 U.S.C. 5058).

§ 416.1147 Alaska Native Claims Settlement Act.

Payments made pursuant to the provisions of the Alaska Native Claims Settlement Act shall be excluded from income to the same extent that those payments are exempt from taxation by reason of section 21(a) of that act (85 Stat. 713, 43 U.S.C. 1620(a)).

3. Section 416.1210 is amended by adding paragraphs (j) and (k) to read as follows:

§ 416.1210 Exclusions from resources; general.

In determining the resources of an individual (and spouse, if any) the following items shall be excluded:

(j) Payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion is expressly required by such statute. (See § 416.1236.)

(k) Payments received under the Alaska Native Claims Settlement Act as provided in § 416.1238.

4. A new § 416.1236 is added to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) Payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from resources is expressly required by such statute include:

(1) Payments made under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(84 Stat. 1902, 42 U.S.C. 4636).

(2) Judgment payments to members of the Blackfeet and Gros Ventre Tribes of Indians under the provisions of Pub. L. 92-254 (86 Stat. 65, 25 U.S.C. 1264).

(3) Indian judgment payments under the provisions of Pub. L. 93-134 (87 Stat. 468, 25 U.S.C. 1407), awarded from the date of that act (October 19, 1973), excluding such payments when made to any tribe or group whose trust relationship with the Federal government has been terminated and for which there already existed legislation authorizing the disposition of its judgment funds; but including all funds deriving from judgments entered prior to the date of the act for which there has been no enabling legislation.

(4) The value of the coupon allotment in excess of the amount paid for the coupons under the Food Stamp Act of 1964 (78 Stat. 705, as amended, 7 U.S.C. 2016(c)).

(5) The value of assistance to children under the National School Lunch Act (60 Stat. 230, 42 U.S.C. 1751 et seq.) as amended by Pub. L. 90-302 (82 Stat. 117, 42 U.S.C. 1761(h)(3)).

(6) The value of assistance to children under the Child Nutrition Act of 1966 (80 Stat. 889, 42 U.S.C. 1780(b)).

(7) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education as provided by section 507 of the Higher Education Amendments of 1968, Pub. L. 90-575 (82 Stat. 1063).

(8) Incentive allowances received under title I of the Comprehensive Employment and Training Act of 1973 (87 Stat. 849, 29 U.S.C. 821(a)).

(b) In order for payments and benefits listed in paragraph (a) to be excluded from resources, such funds must be segregated and not commingled with other countable resources so that the excludable funds are identifiable.

5. A new § 416.1238 is added to read as follows:

§ 416.1238 Exclusions from resources; Alaska Native Claims Settlement Act.

(a) In determining the resources of an individual (and spouse, if any) there shall be excluded payments received under the Alaska Native Claims Settlement Act to the same extent that those payments are exempt from taxation by reason of section 21(a) of that act (85 Stat. 713, 43 U.S.C. 1620(a)).

(b) In order for payments in paragraph (a) to be excluded from resources, such funds must be segregated and not commingled with other countable resources so that the excluded funds are identifiable.

[FR Doc. 75-11978 Filed 5-6-75; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-562]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination

Notice of proposed Flood Elevation Determination for the Village of Readstown, Vernon County, Wisconsin.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Village of Readstown.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate

in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, Readstown.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Harlan Sime, Sr., Village President, Readstown, Wisconsin 56452. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or August 5, 1975, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation of stream to 100-yr flood mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
		Left	Right
Klekopow River (without La-Farge Dam):			
North corporate limits.....	746	365	175
Charles St.....	742	375	75
Klekopow St.....	741	980	150
South corporate limits.....	738	1,600	625
North corporate limits.....	742	290	240
Charles St.....	740	300	65
Klekopow St.....	738	850	110
South corporate limits.....	736	1,640	610
Beale Creek:			
West corporate limits.....	746	765	170
Routes 61-131.....	745	330	200

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 10, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc.75-11877 Filed 5-6-75;8:45 am]

[Docket No. FI-563]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determination

Notice of proposed Flood Elevation Determination for the Borough of West Reading, Berks County, Pennsylvania.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968) (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a))

hereby gives notice of his proposed determinations of flood elevations for the Borough of West Reading.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Borough Hall, 500 Chestnut Street, West Reading, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Borough Manager John M. Nestro, Borough Hall, 500 Chestnut Street, West Reading, Pennsylvania 19602. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or August 5, 1975, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation of stream to 100-yr flood mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
		Left	Right
Schuylkill River:			
W. Buttonwood St.....	215	Corporate limits.	340
Franklin St.....	213	do.....	735
Spruce St.....	212	do.....	400
Wyomissing Creek:			
Seventh Ave.....	217	100 Corporate limits.	40
Parkview Rd.....	212	125	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 10, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc.75-11876 Filed 5-6-75;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-564]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determination

Correction of the proposed Flood Elevation Determination for the Town of Fairhaven, Bristol County, Massachusetts.

Notice published on March 31, 1975, in FEDERAL REGISTER Vol. 40, No. 62, Page 14332, contained an error. The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster

Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for Fairhaven, Massachusetts.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Center Street, Fairhaven.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Chairman of Selectmen, Kenneth M. Wood, Jr., Town Hall, Fairhaven, Massachusetts 02719. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or August 5, 1975, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation of stream to 100-yr flood mean sea level	Width in feet from shoreline to 100-yr flood boundary
Priests Cove:		
Egypt Lane.....	13	850 (to dike)
Highland St.....	13	190
Little Bay:		
Weeden St.....	13	2,320
Nasketucket Bay:		
Grandview Ave.....	13	800
Buzzard's Bay:		
Fisherman Rd.....	13	800
Little Neck Rd.....	13	810
Causeway Rd.....	13	1,290

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 11, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-11875 Filed 5-6-75;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-565]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determination

Notice of proposed Flood Elevation Determination for the City of Ladue, St. Louis County, Missouri.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Ladue.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 9345 Clayton Road, Ladue.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Richard Shelton, City Hall, 9345 Clayton Road, Ladue, Missouri 63124. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or August 5, 1975, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
		Left	Right
Country Club Drainage:			
North corporate limits.....	624	50	50
Dietman Rd.....	575	200	175
McKnight Rd.....	517	175	150
Black Creek:			
North corporate limits.....	527	130	75
Pointer Lane.....	504	125	75
East corporate limits.....	489	Corporate limits	200
Deer Creek:			
West corporate limits.....	517	340	180
Clayton Rd.....	506	400	300
Log Cabin Lane.....	485	375	160
Litzinger Rd.....	475	180	460
East corporate limits.....	471	675	400
Twomile Creek:			
West corporate limits.....	507	280	100
Bridle Creek:			
Lane extended.....	486	80	130
Trent Dr.....	481	150	90
Sebago Drainage:			
Kenmont Rd.....	508	80	75
Dea Peres Ave.....	488	200	70

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Ad-

ministrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 8, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc. 75-11874 Filed 5-6-75; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 75]

[Airspace Docket No. 75-SO-38]

VOR AIRWAYS AND JET ROUTES

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would alter V-7W-V-159 and J-41 northwest of Birmingham, Ala.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 27, 1975 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of Regional Air Traffic Division Chief.

The FAA proposes to amend Part 71 and Part 75 as follows:

1. In § 71.123 (40 FR 307):

a. V-7 would be amended by deleting "and also a W alternate via INT Birmingham 298" and Muscle Shoals 178° radials;" and substituting "and also a W alternate via INT Birmingham 300° and Muscle Shoals 178° radials;" therefor.

b. V-159 would be amended by deleting "INT Birmingham 298° and Hamilton, Ala., 122° radials; Hamilton;" and substituting "Hamilton, Ala.;" therefor.

2. In § 71.100 (40 FR 705), J-41 would be amended by deleting "Birmingham, Ala.; Memphis, Tenn.;" and substituting "Birmingham, Ala.; INT Birmingham 300° and Memphis, Tenn., 113° radials; Memphis;" therefor.

The proposed amendments would provide improved separation of enroute IFR traffic and military operations in the vicinity of Columbus, Miss., Intensive Student Jet Training Areas (ISJTAs).

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C.

1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 1, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 75-11890 Filed 5-6-75; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 75-SO-37]

JET ROUTES

Proposed Alteration and Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would alter J-83, J-91, J-145, and designate a new jet route in the area between Toccoa, Ga., and Ellwood City, Pa.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 27, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to amend Part 75 as follows:

1. Designate a jet route from Toccoa, Ga., to the INT of Spartanburg, S.C., 341° (343°M) and Appleton, Ohio, 184° (186°M) radials.

2. Redesignate J-83 to read as follows: Jet Route No. 83 From Spartanburg, S.C., via INT Spartanburg 341° (343°M) and Appleton, Ohio, 184° (186°M) radials; Appleton; to Cleveland, Ohio.

3. Redesignate J-91 to read as follows: Jet Route No. 91 From Atlanta, Ga., via Knoxville, Tenn.; Henderson, W. Va.; to Bellaire, Ohio.

4. Redesignate J-145 to read as follows: Jet Route No. 91 From Atlanta, Ga., via Charleston, W. Va.; INT Charleston 034° (037°M) and the Ellwood City, Pa., 194° (199°M) to Ellwood City, Pa.

The proposed amendment would reduce radar vectoring and eliminate the mixture of arrivals and departures within recently reconfigured sectors at the Atlanta Air Route Traffic Control Center.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a))

and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 1, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 75-11891 Filed 5-6-75; 8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

[36 CFR Part 601]

NONDISCRIMINATION IN EMPLOYMENT AND ON THE BASIS OF RELIGION, SEX OR AGE

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority of the Administrator of the American Revolution Bicentennial Administration (ARBA) contained in section 2(f) and 9(a) of Pub. L. 93-179, the ARBA proposes to amend Title 36 by designating the present Part 601 "Nondiscrimination in Federally Assisted Programs of the American Revolution Bicentennial Administration—Effectuation of Title VI of the Civil Rights Act of 1964" (39 FR 28279, August 6, 1974) as Subpart A and by adding a new Subpart B which forbids discrimination in employment and discrimination on the basis of race, color, or national origin in any program that receives Federal financial assistance.

Interested persons are invited to submit written comments to the General Counsel, American Revolution Bicentennial Administration, 2401 E Street NW., Washington, D.C. 20276. Comments received on or before June 6, 1975, will be considered before final action is taken on this proposal. Copies of all written comments will be available for examination by interested parties in Room 7240, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

It is proposed to amend 36 CFR Part 601 as follows:

1. By redesignating the present Part 601 as Subpart A;
2. By adding a new part heading and new Subpart B to read as follows:

PART 601—NONDISCRIMINATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subpart B—Nondiscrimination in Employment and on the Basis of Religion, Sex or Age

- Sec.
- 601.13 Purpose.
 - 601.14 Application of this subpart.
 - 601.15 Definition.
 - 601.16 Discrimination prohibited.
 - 601.17 Assurance required.
 - 601.18 Compliance information.
 - 601.19 Conduct of investigations, procedures for effecting compliance, hearings, decisions, and judicial review; forms, instruction, and effect on other regulations.

AUTHORITY: Secs. 2(f) and 9(a), Pub. L. 93-179; 87 Stat. 697 & 702 (1973).

§ 601.13 Purpose.

(a) Part 601, Subpart A of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from the American Revolution Bicentennial Administration (ARBA). The purpose of this subpart is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive Orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the American Revolution Bicentennial Administration that discrimination based on race, color, national origin, religion, sex or age shall be prohibited, to the extent that it is not prohibited by Part 601, Subpart A of this chapter, to all recipients of financial assistance from the American Revolution Bicentennial Administration.

(b) It is the intention of the Administration that the prohibitions in this subpart supplement those in Part 601, Subpart A of this chapter, that the two parts be read *in pari materia*, and that the procedures established herein be harmonized to the maximum extent feasible with those established in Part 601, Subpart A of this chapter.

§ 601.14 Application of this subpart.

(a) Federal financial assistance—Except as hereinafter noted, this subpart applies to each program or activity receiving Federal financial assistance administered by the Administration including:

(1) Grants to assist in the establishment or implementation of Bicentennial commissions pursuant to section 9(1) of the Joint Resolution to establish the American Revolution Bicentennial Administration, as amended.

(Pub. L. 93-179; 87 Stat. 702 (1973)).

(2) Grants to nonprofit entities to assist in developing or supporting Bicentennial programs or projects pursuant to section 9(a) of the Joint Resolution to establish the American Revolution Bicentennial Administration, as amended.

(Pub. L. 93-179; 87 Stat. 702 (1973)).

(3) Grants to nonprofit entities to match donations or requests for Bicentennial programs or projects pursuant to section 9(3) of the Joint Resolution to establish the American Revolution Bicentennial Administration, as amended.

(Pub. L. 93-179; 87 Stat. 702 (1973)).

(b) This subpart does not apply to:

(1) Money paid, property transferred, or other assistance extended under a program before the effective date of this subpart except when the assistance was subject to the nondiscrimination regulations of an agency whose responsibilities are now exercised by the Administration.

(2) Assistance to any individual who is the ultimate beneficiary under a program.

(c) Real Property—In a program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under that property are included as part of the program receiving that assistance, the nondiscrimination requirement of this regulation extends to a facility located wholly or in part in that space.

§ 601.15 Definition.

As used in this subpart:

(a) "Applicant" means a person who submits an application, request, or plan required to be approved by the Administration, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means that application, requests, or plan.

(b) "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(c) "Federal financial assistance" includes:

- (1) Grants and loans of Federal funds;
- (2) The grant or donation of Federal property and interests in property;
- (3) The detail of Federal personnel;
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in the property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale or lease to the recipient; and
- (5) A Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(d) "Primary recipient" means a recipient that is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(e) "Program" includes a program, project or activity for the provision of services, financial aid, or other benefits to individuals (including education or training or other services whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient), or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance are deemed to include a service, financial aid, or other benefit provided (1) with the aid of Federal financial assistance (2) with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to

meet the matching requirements or other conditions which must be met in order to receive the Federal financial assistance, or (3) in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(f) "Recipient" may mean any State, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual in any State, the District of Columbia, the Commonwealth of Puerto Rico, or territory or possession of the United States, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but the term does not include any ultimate beneficiary under a program.

(g) "Administration" means the American Revolution Bicentennial Administration.

(h) "Administrator" means the Administrator of the American Revolution Bicentennial Administration, or any persons to whom he has delegated his authority in the matter concerned.

§ 601.16 Discrimination prohibited.

(a) *General*—To the extent not covered or prohibited by Part 601, Subpart A of this chapter, no person in the United States shall, on the ground of race, color, national origin, religion, sex, or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under a program to which this subpart applies.

(b) *Specific discriminatory actions prohibited.*

(1) To the extent that this subpart applies, a recipient under a program shall not, directly or through contractual or other arrangements, on the ground of race, color, national origin, religion, sex, or age:

(i) Deny a person a service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any matter related to the receipt of a service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of an advantage or privilege enjoyed by others receiving a service, financial aid, or other benefit under the program;

(v) Treat a person differently from others in determining whether the person satisfies an admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided a service, financial aid, or other benefit provided under the program or other activity;

(vi) Deny a person an opportunity to participate in the program or other activity through the provision of services or otherwise, including the opportunity to participate as an employee, or afford the person an opportunity to do so which is different from that afforded others under the program;

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under a program, or the class of persons to whom, or the situations in which, the services, financial aid, other benefits, or facilities will be provided under a program, or the class of persons to be afforded an opportunity to participate in a program, shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, national origin, religion, sex or age or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, religion, sex, or age.

(3) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(4) (i) In administering a program where prior discriminatory practice or usage tends, on the grounds of race, color, national origin, religion, sex, or age to restrict the availability of, to exclude individuals from participation in, or to deny them the benefits of programs or have the purpose or effect of substantially impairing the accomplishment of the objectives of the Act and of this section, the recipient shall take affirmative action to overcome the effects of the prior discriminatory practice or usage and take the additional steps necessary to make equal opportunity fully available to persons previously subjected to discrimination.

(ii) Even though a recipient has never used discriminatory policies, the opportunities may not be equally available to persons previously subjected to discrimination. In such a case a recipient may take affirmative action to overcome the effect of conditions which resulted in limiting participation by persons of a particular race, color, national origin, religion, sex, or age in order to make new opportunities more available to such groups.

(c) *Employment practices*—A recipient or other party subject to this regulation shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, national origin, religion, sex, or age in its employment practices under the program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay,

or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). A recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to race, color, national origin, religion, sex, or age. The requirements applicable to construction employment under a program are those specified in or pursuant to Part III of Executive Order 11246 or any Executive Order which supersedes it.

(d) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program to which this part applies, on the ground of race, color, national origin, religion, sex, or age; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this part.

(e) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient government from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the service.

§ 601.17 Assurance required.

(a) *General*—(1) An application for Federal financial assistance to carry out a program to which this subpart applies, except a program to which paragraph (d) of this section applies and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of Federal financial assistance pursuant to the application, contain or be accompanied by, assurances that the program will be conducted or the facility operated in compliance with the requirements imposed by or pursuant to this part. Every program of Federal financial assistance shall require the submission of these assurances. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, these assurances shall obligate the recipient, or in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of property, whichever is longer. In other cases, the assurances obligate the recipient for the period during which the Federal financial assistance is extended to the program. In the case where assistance is sought for the construction of a facility or part of a facility, the assurances shall extend to the entire facility and to the facilities operated in

connection therewith. The Administrator shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. The assurances shall include provisions which give the United States the right to seek judiciary enforcement.

(2) When Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. When no transfer of property or interest therein from the Federal Government is involved, but property is acquired or improved under a program of federal financial assistance the recipient shall agree to include a covenant in any subsequent transfer of the property. When the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by the Administration to revert title to the property in the event of a breach of the covenant where, in the discretion of the Administration, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on property for the purposes for which the property was transferred, the Administration may agree, on request of the transferee and if necessary to accomplish the financing and on conditions as he deems appropriate, to subordinate a right of reversion to the lien of a mortgage or other encumbrance.

(b) *Assurances from government agencies.*—In the case of an application from a department, agency, or office of a State or local government for Federal financial assistance for a specified purpose, the assurance required by this section shall extend to any other department, agency, or office of the same governmental unit if the policies of the other department, agency, or office will substantially affect the project for which Federal financial assistance is requested. That requirement may be waived by the responsible Administration official if the applicant establishes, to the satisfaction of the responsible Administration official, that the practices in other agencies or parts or programs of the governmental unit will in no way affect (1) its practices in the program for which Federal financial assistance is sought, or (2) the beneficiaries of or participants in or persons affected by the program, or (3) full

compliance with this regulation as respects the program.

(c) *Assurance from academic and other institutions* (1) In the case of an application for Federal financial assistance by an academic institution, the assurance required by this section extends to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required by an academic institution, detention or correctional facility, or any other institution or facility, relating to the institution's practices with respect to admission or other treatment of individuals as students, patients, wards, inmates, persons subject to control, or clients of the institution or facility or to the opportunity to participate in the provision of services, disposition, treatment, or benefits to these individuals, is applicable to the entire institution or facility unless the applicant establishes, to the satisfaction of the responsible Administration official, that the practices in designated parts or programs of the institution or facility will in no way affect its practices in the program of the institution or facility for which Federal financial assistance is sought, or the beneficiaries of or participants in the program. If the assistance sought is for the construction of a facility or part of a facility, the assurance shall extend to the entire facility and to facilities operated in connection therewith.

(d) *Continuing State programs.*—Every application by a state or a state agency to carry out a program involving continuing Federal financial assistance to which this regulation applies shall, as a condition to its approval and the extension of Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with the requirements imposed by or pursuant to this regulation, and (2) provide or be accompanied by provision for methods of administration for the program as are found by the Administration to give reasonable guarantee that the applicant and all recipients of Federal financial assistance under the program will comply with the requirements imposed by or pursuant to this subpart.

§ 601.18 Compliance information.

(a) *Cooperation and assistance.*—The Administration shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this subpart and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this subpart.

(b) *Compliance Reports.*—Each applicant or recipient shall keep records and submit to the Administration, timely, complete, and accurate compliance reports at the times and in the form and containing the information the Administration may determine to be necessary to enable it to ascertain whether the applicant or recipient has complied or is complying with this subpart. In the case of a program under which a primary recipient

extends Federal financial assistance to subrecipients, the subrecipients shall also submit compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart. In general, recipients should have available for the Administration racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs and members of groups or bodies referred to in § 601.16 (b) (vii).

(c) *Access to sources of information.*—Each applicant or recipient shall permit access by the Administration, during normal business hours, to its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this regulation. When information required of a recipient is in the exclusive possession of another agency, institution, or person and this agency, institution, or person fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to participants, beneficiaries and other interested persons.*—Each applicant or recipient shall make available to participants, beneficiaries, and other persons, entitled under this subpart to protection against discrimination by the recipient, such information regarding the provisions of this subpart, and its applicability to the program under which the recipient received Federal financial assistance. Information shall be made available to them in such manner as the Administration finds necessary to apprise the persons of their rights to such protection.

§ 601.19 Conduct of investigations, procedures for effecting compliance, hearings, decisions, and judicial review; forms, instruction, and effect on other regulations.

(a) Each responsible Administration official shall take appropriate measures to effectuate and enforce the provisions of this subpart; and shall issue and promptly make available to interested persons forms, instructions, and procedures for effectuating this part as applied to programs for which the official is responsible. Insofar as feasible and not inconsistent with this subpart, and the conduct of investigations and the procedures for effecting compliance, holding the hearings, rendering decisions and initiating judicial review of such decisions shall be consistent with those prescribed by §§ 601.7 through 601.12 of this chapter; provided that any action terminating or refusing to grant or to continue financial assistance pursuant to this subpart shall not be deemed committed to unreviewable agency discretion and shall be subject to such judicial review as may be provided by law, and provided further that the provisions of § 601.8(c) (4) shall not be applicable to proceedings under this subpart.

(b) If it is determined, after opportunity for a hearing on the record, that a recipient has engaged or is engaging

in practices which unlawfully discriminate on the ground of race, color, national origin, religion, sex, or age, the recipient will be required to cease such discriminatory practices and to take such action as may be appropriate to eliminate present discrimination, to correct the effects of past discrimination, and to prevent such discrimination in the future.

(e) Nothing in this subpart shall be deemed to supersede any provisions of Part 601, Subpart A, Title 36, Code of Federal Regulations, or of any other regulation and instruction which prohibits discrimination on the ground of race, color, national origin, religion, sex, or age in any program or situation to which this subpart is inapplicable, or which prohibits discrimination on any other ground.

Dated: April 28, 1975.

JOHN W. WARNER,
Administrator.

[FR Doc. 75-11924 Filed 5-6-75; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 81, 83]

[Docket No. 20449; FCC 75-443]

RADIOTELEPHONE SERVICE

Assignment of Frequencies

In the matter of amendment of Parts 81 and 83 to provide for the use of certain radiotelephone frequencies between 5 and 25 MHz at Mobile, Alabama; cross-licensing of radiotelephone frequencies at Miami, Florida, New York, New York, and San Francisco, California; and additional frequencies at Miami, Florida; Docket No. 20449, RM 2078, RM 2225, RM 2245.

1. The Commission has before it three petitions for rule making for radiotelephone frequencies for public coast stations:

a. RM 2078—Petition from Mobile Marine Radio (MMR) for radiotelephone frequencies to be used as an adjunct to radioteletype communications and a new high seas radiotelephone service for its customers.

b. RM 2225—Petition from American Telephone and Telegraph Company (AT&T) for additional frequencies at its three high seas radiotelephone stations and for cross-licensing of frequencies currently assigned to establish the same frequency complement at each of its stations.

c. RM 2245—A Petition from AT&T for additional frequencies at Miami, Florida, based on increased traffic requirements.

2. In response to the public notices on the above petitions, the following documents were received:

a. Statement of Opposition by AT&T to RM 2078 wherein they state that there is no basis for the assignment of radiotelephone frequencies to provide a more efficient essentially radiotelegraph service.

b. MMR reply to the Statement in Opposition of AT&T to RM 2078 wherein MMR states that the radiotelephone fre-

quencies would not be used exclusively for direct-printing calling and setup, but also to provide radiotelephone service to its subscribers.

c. Opposition by MMR to RM 2225 wherein MMR states that the question presented the Commission by both RM 2078 and RM 2225 is how the public interest, convenience and necessity can best be served by the allocation of additional frequencies to public coast stations.

3. Associated with these petitions were applications for assignment of specific frequencies. These frequencies were submitted to the Interdepartment Radio Advisory Committee (IRAC) for coordination with Government agencies. Those frequencies receiving no objections may be assigned as listed below. These frequencies are underlined for easy identification.

4. In support of its petition, MMR states that it is the licensee of public coast class I-ABL station WLO at Mobile, Alabama. WLO provides radiotelegraph and direct-printing service in the high frequency (HF) band 4 to 27.5 MHz. In addition, it provides short range distance radiotelephony service in the medium frequency (MF) band 2 to 4 MHz and very high frequency (VHF) radiotelephony in the band 156 to 162 MHz. Single sideband (SSB) radiotelephony frequencies in the HF band of the same frequency order as the radiotelegraph frequencies are necessary for coordinated set up of equipment. Two frequencies in each band are required to provide communications under varying propagation conditions.

5. AT&T in its opposition stated that there was no basis for selection of radiotelephone frequencies in order to provide an efficient essentially radiotelegraph system. Further, that the assignment of two frequencies in each band to ensure availability of a clear channel is excessive and wasteful of available radiotelephone frequencies. AT&T stated that the assignment of the same frequencies to MMR and AT&T stations would cause serious operational problems.

6. MMR in its reply to the AT&T opposition, submitted additional information and stated that the SSB radiotelephone frequencies in question would not be used exclusively for direct-printing calling and set up purposes. MMR asserts it has heretofore been denied the ability to provide HF radiotelephone service to its subscribers which has been a continuing source of inconvenience to its subscribers. This inconvenience will be magnified with the provision of an expanded direct-printing service without radiotelephone service. Vessels passing direct-printing traffic will frequently have a requirement for simultaneous radiotelephone exchanges with the point of communications for the purpose of explaining the data being transmitted. Furthermore, regular radiotelephony frequencies are necessary in the event of printer failure. Radiotelephone frequencies must be assigned to MMR so that MMR may provide an efficient direct-printing service to its subscribers. In addition, MMR must make a substan-

tial capital investment in new HF radiotelephone equipment to provide for this effective direct-printing service. It would, therefore, be unconscionable for the Commission to deny MMR the ability to fully utilize the equipment in terms of offering an efficient communication service and earning a reasonable return on its capital investment.

7. The Commission received three comments supporting MMR's petition. These basically supported the position that MMR have a full radiotelephone capability to adequately serve its subscribers. In addition, one commentator stated that the AT&T station was loaded during the cruise season, and is unable to handle industrial traffic in addition to the normal cruise traffic. AT&T has requested additional frequencies to provide this additional service. While these documents were not conclusive, there is an implication that the high seas radiotelephone service in the Gulf of Mexico may not be satisfactory and that additional service may be required.

8. AT&T has requested cross-licensing of all its frequencies at its stations in Miami, Florida; New York, New York; and San Francisco, California. In addition, additional frequencies for Miami, Florida, have been requested in an effort to provide better service in the Gulf of Mexico. We will determine, as a result of this proceeding, whether additional frequencies, additional equipment and operating positions at existing stations or authorization of new services would be in the public interest.

9. On June 13, 1973, the Commission adopted a Report and Order (38 FR 16648) published in the FEDERAL REGISTER June 25, 1973, which established a procedure for providing a direct-printing service on six common frequencies for calling and the exchange of information concerning the working frequency for traffic handling. Calling and identification shall be effected by direct-printing. This will permit direct-printing operation on radiotelephone fitted vessels which do not have a radiotelegraph second-class or higher-class licensed operator on board.

10. The above interim procedures were adopted in the absence of any internationally accepted operating procedures for narrow-band direct-printing. We believe that permitting radiophony for set up and back up of direct-printing would be inadvisable until internationally accepted procedures are promulgated. The Commission, at that time, will initiate procedures for direct-printing which will terminate the interim procedures now in effect. We are, therefore, dismissing the Petition for Rule Making 2078 which requests radiotelephone frequencies for set up and back up of direct-printing without prejudice.

11. We have reviewed the comments filed in this proceeding thus far and notwithstanding some disagreement by the parties involved as to the details of rule changes necessary to cope with the problem before us, we conclude that rule changes should be proposed as set forth below. Before reaching a final decision

in this matter, we will further consider and evaluate all comments already filed in the proceeding, together with any additional comments resulting from this notice. It is pointed out at this time that all of the radiotelephone frequencies presently assigned and the frequencies proposed in this notice are subject to change at such time that we implement the Final Acts of the World Administrative Radio Conference, Geneva, 1974, which specified the relevant implementation date as January 1, 1978.

12. In addition to any other comments any party may wish to submit in response to this notice, we would welcome comments on the following:

a. Any radiotelephone requirements to support direct-printing transmissions;

b. The requirement for an additional radiotelephone station to provide service in a more efficient manner; and

c. Whether shared use of the frequencies between different licensees is possible or whether different frequency assignments must be made to stations of different licensees.

13. The proposed amendments to the rules are issued pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before June 6, 1975, and reply comments on or before June 16, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

14. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: April 23, 1975.

Released: May 1, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 81 and 83 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 81, Stations on Land in the Maritime Services and Alaska-Public Fixed Stations, is amended as follows:

1. In § 81.304, the table in paragraph (a) is amended as follows:

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (kHz)	See section	Conditions of use
8796.0	81.306(a)	11, 47.
8805.6	81.306(a)	3, 5, 27, 47.
8808.8	81.306(a)	11, 12, 47.
12379.0	81.306(c)	3, 5, 27, 47.
13137.0	81.306(a)	12, 47.
13140.5	81.306(a)	11, 47.
13151.0	81.306(a)	12, 47.
13154.5	81.306(a)	11, 47.
13158.0	81.306(c)	3, 5, 27, 47.
13161.5	81.306(a)	11, 47.
13172.0	81.306(a)	12, 47.
13175.5	81.306(a)	11, 47.
13186.0	81.306(a)	11, 12, 47.
13193.0	81.306(a)	12, 47.
16488.0	81.306(c)	3, 5, 27, 47.
17269.0	81.306(a)	12, 47.
17272.5	81.306(a)	11, 47.
17284.0	81.306(c)	3, 5, 27, 47.
17286.5	81.306(a)	11, 47.
17304.0	81.306(a)	12, 47.
17307.5	81.306(a)	11, 47.
17318.0	81.306(a)	12, 47.
17321.5	81.306(a)	11, 47.
17325.0	81.306(a)	12, 47.
17339.0	81.306(a)	11, 12, 47.
22625.5	81.306(a)	11, 47.
22633.5	81.306(a)	12, 47.
22637.0	81.306(a)	11, 47.
22667.5	81.306(a)	12, 47.
22671.0	81.306(a)	11, 47.
22688.5	81.306(a)	12, 47.
22692.0	81.306(a)	11, 47.
22700.0	81.306(a)	12, 47.
22713.0	81.306(a)	12, 47.

2. In § 81.306, the tables in paragraph (a) are revised as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) * * *

(1) Working frequencies below 5000 kHz.

Coast station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kHz)
2506	San Francisco, Calif.	2406
2530	Hawaii	2134
2590	New York, N.Y.	2198
4371.0	San Francisco, Calif. ¹	4072.4
4371.0	New York, N.Y.	4072.4
4371.0	Miami, Fla.	4072.4
4390.2	New York, N.Y. ²	4091.6
4390.2	San Francisco, Calif.	4091.6
4390.3	Miami, Fla.	4091.6
4399.8	New York, N.Y.	2101.2
4399.8	San Francisco, Calif. ²	4101.2
4399.8	Miami, Fla.	4101.2
4403.0	New York, N.Y.	4104.4
4403.0	San Francisco, Calif. ²	4104.4
4403.0	Miami, Fla.	4104.4
4415.8	Hawaii ²	4117.2
4415.8	Miami, Fla.	4117.2
4419.0	New York, N.Y.	4120.4
4422.2	Miami, Fla. ¹	4123.6
4422.2	New York, N.Y.	4123.6
4422.2	San Francisco, Calif.	4123.6
4425.4	Miami, Fla.	4126.8
4425.4	New York, N.Y.	4126.8
4425.4	San Francisco, Calif.	4126.8
4428.6	New York, N.Y.	4130.0
4428.6	San Francisco, Calif. ²	4130.0
4428.6	Miami, Fla.	4130.0

¹ Available for use annually at New York, N.Y., during period Dec. 15 to Mar. 15.

² Station of primary allotment.

³ Subject to noninterference to use at locations set forth in paragraphs (b) and (c) of this section.

(2) Working frequencies between 5000 kHz and 27.5 MHz:

Coast station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kHz)
8735.2	San Francisco, Calif.	8201.2
8735.2	New York, N.Y. ¹	8201.2
8735.2	Miami, Fla.	8201.2
8738.4	San Francisco, Calif. ²	8204.4
8738.4	New York, N.Y.	8204.4
8738.4	Miami, Fla.	8204.4
8748.0	do	8214.0
8748.0	New York, N.Y.	8214.0
8748.0	San Francisco, Calif. ²	8214.0
8751.2	Hawaii ²	8217.2
8754.4	New York, N.Y.	8220.4
8754.4	San Francisco, Calif.	8220.4
8754.4	Miami, Fla. ²	8220.4
8757.6	New York, N.Y. ²	8223.6
8757.6	San Francisco, Calif.	8223.6
8757.6	Miami, Fla.	8223.6
8773.6	do	8239.6
8773.6	San Francisco, Calif.	8239.6
8773.6	New York, N.Y. ²	8239.6
8776.8	Miami, Fla. ²	8242.8
8776.8	San Francisco, Calif.	8242.8
8776.8	New York, N.Y.	8242.8
8792.8	do	8258.8
8792.8	San Francisco, Calif. ²	8258.8
8796.0	Miami, Fla.	8262.0
8796.0	New York, N.Y. ²	8262.0
8796.0	San Francisco, Calif. ²	8262.0
8796.0	Miami, Fla.	8271.6
8805.6	do	8274.8
8808.8	do	8274.8
8808.8	Mobile, Ala.	8274.8
8808.8	New York, N.Y.	8274.8
8808.8	San Francisco, Calif.	8274.8
13,137.0	New York, N.Y.	12,358.0
13,137.0	San Francisco, Calif.	12,358.0
13,137.0	Miami, Fla. ²	12,358.0
13,140.5	New York, N.Y. ²	12,361.5
13,140.5	San Francisco, Calif.	12,361.5
13,140.5	Miami, Fla.	12,361.5
13,151.0	do	12,372.0
13,151.0	New York, N.Y.	12,372.0
13,151.0	San Francisco, Calif. ²	12,372.0
13,154.5	Hawaii ²	12,375.5
13,161.5	San Francisco, Calif. ²	12,382.5
13,161.5	New York, N.Y.	12,382.5
13,161.5	Miami, Fla.	12,382.5
13,172.0	New York, N.Y.	12,393.0
13,172.0	Miami, Fla. ²	12,393.0
13,172.0	San Francisco, Calif.	12,393.0
13,175.5	New York, N.Y. ²	12,396.5
13,175.5	Miami, Fla.	12,396.5
13,186.0	do	12,407.0
13,186.0	Mobile, Ala.	12,407.0
13,186.0	New York, N.Y.	12,407.0
13,186.0	San Francisco, Calif.	12,407.0
13,193.0	Miami, Fla.	12,414.0
13,193.0	New York, N.Y.	12,414.0
13,193.0	San Francisco, Calif.	12,414.0
17,269.0	New York, N.Y.	16,474.0
17,269.0	San Francisco, Calif. ²	16,474.0
17,272.5	Hawaii ²	16,474.0
17,286.5	New York, N.Y. ²	16,477.5
17,286.5	San Francisco, Calif.	16,491.5
17,286.5	Miami, Fla.	16,491.5
17,304.0	San Francisco, Calif.	16,509.0
17,304.0	New York, N.Y. ²	16,509.0
17,304.0	Miami, Fla.	16,509.0
17,307.5	San Francisco, Calif. ²	16,512.5
17,307.5	New York, N.Y.	16,512.5
17,307.5	Miami, Fla.	16,512.5
17,318.0	New York, N.Y.	16,523.0
17,318.0	Miami, Fla. ²	16,523.0
17,318.0	San Francisco, Calif.	16,523.0
17,321.5	New York, N.Y. ²	16,526.5
17,321.5	Miami, Fla.	16,526.5
17,325.0	do	16,530.0
17,325.0	New York, N.Y.	16,530.0
17,325.0	San Francisco, Calif.	16,530.0
17,339.0	Miami, Fla. ²	16,544.0
17,339.0	Mobile, Ala.	16,544.0
17,339.0	New York, N.Y.	16,544.0
17,339.0	San Francisco, Calif.	16,544.0
22,625.5	Mobile, Ala.	22,000.0
22,625.5	New York, N.Y.	22,028.0
22,625.5	Miami, Fla. ²	22,028.0
22,625.5	San Francisco, Calif.	22,028.0
22,627.0	New York, N.Y. ²	22,031.5
22,627.0	Miami, Fla.	22,031.5
22,627.0	San Francisco, Calif.	22,042.0
22,627.0	New York, N.Y. ²	22,042.0
22,627.0	Miami, Fla.	22,042.0
22,627.0	San Francisco, Calif. ²	22,045.5
22,627.0	New York, N.Y.	22,045.5
22,627.0	Miami, Fla.	22,045.5
22,628.5	New York, N.Y.	22,063.0
22,628.5	San Francisco, Calif. ²	22,063.0

4. In § 83.354, the table in paragraph (b) is amended as follows:

§ 83.354 Frequencies below 5000 kHz for public correspondence.

(b) . . .

Coast station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kHz)
22,688.5	Miami, Fla.	22,063.0
22,692.0	New York, N.Y. ¹	22,066.5
22,692.0	San Francisco, Calif. ²	22,066.5
22,692.0	Miami, Fla.	22,066.5
22,706.0	do.	22,080.5
22,706.0	New York, N.Y.	22,080.5
22,706.0	San Francisco, Calif.	22,080.5
22,713.0	Miami, Fla. ²	22,087.5
22,713.0	Mobile, Ala.	22,087.5
22,713.0	New York, N.Y.	22,087.5
22,713.0	San Francisco, Calif.	22,087.5

¹ Available for communication with ship stations in the Gulf of Mexico and the Caribbean area only. Use of the frequency is upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.

² Station of primary allotment.

3. In § 83.351, the table in paragraph (a) is amended as follows:

§ 83.351 Frequencies available.

(a) . . .

Carrier frequency (kHz)	See section	Conditions of use
8301.4	83.355	14, 18.
8307.6	83.354	3, 15, 21, 26.
8310.8	83.354	3, 15, 21, 26.
8314.0	83.355	18, 27.
8317.2	83.355	14, 18.
8320.4	83.355	18, 27.
8323.6	83.355	14, 18.
8326.8	83.355	18, 27.
8329.0	83.355	14, 18.
8332.2	83.344	3, 21, 60.
8335.4	83.355	14, 20.
8338.6	83.355	18, 27.
8341.8	83.355	14, 18, 27.
8345.0	83.355	14, 18, 27.
8348.2	83.355	14, 18, 27.
8351.4	83.355	14, 18, 27.
8354.6	83.355	14, 18, 27.
8357.8	83.355	14, 18, 27.
8361.0	83.355	14, 18, 27.
8364.2	83.355	14, 18, 27.
8367.4	83.355	14, 18, 27.
8370.6	83.355	14, 18, 27.
8373.8	83.355	14, 18, 27.
8377.0	83.355	14, 18, 27.
8380.2	83.355	14, 18, 27.
8383.4	83.355	14, 18, 27.
8386.6	83.355	14, 18, 27.
8389.8	83.355	14, 18, 27.
8393.0	83.355	14, 18, 27.
8396.2	83.355	14, 18, 27.
8399.4	83.355	14, 18, 27.
8402.6	83.355	14, 18, 27.
8405.8	83.355	14, 18, 27.
8409.0	83.355	14, 18, 27.
8412.2	83.355	14, 18, 27.
8415.4	83.355	14, 18, 27.
8418.6	83.355	14, 18, 27.
8421.8	83.355	14, 18, 27.
8425.0	83.355	14, 18, 27.
8428.2	83.355	14, 18, 27.
8431.4	83.355	14, 18, 27.
8434.6	83.355	14, 18, 27.
8437.8	83.355	14, 18, 27.
8441.0	83.355	14, 18, 27.
8444.2	83.355	14, 18, 27.
8447.4	83.355	14, 18, 27.
8450.6	83.355	14, 18, 27.
8453.8	83.355	14, 18, 27.
8457.0	83.355	14, 18, 27.
8460.2	83.355	14, 18, 27.
8463.4	83.355	14, 18, 27.
8466.6	83.355	14, 18, 27.
8469.8	83.355	14, 18, 27.
8473.0	83.355	14, 18, 27.
8476.2	83.355	14, 18, 27.
8479.4	83.355	14, 18, 27.
8482.6	83.355	14, 18, 27.
8485.8	83.355	14, 18, 27.
8489.0	83.355	14, 18, 27.
8492.2	83.355	14, 18, 27.
8495.4	83.355	14, 18, 27.
8498.6	83.355	14, 18, 27.
8501.8	83.355	14, 18, 27.
8505.0	83.355	14, 18, 27.
8508.2	83.355	14, 18, 27.
8511.4	83.355	14, 18, 27.
8514.6	83.355	14, 18, 27.
8517.8	83.355	14, 18, 27.
8521.0	83.355	14, 18, 27.
8524.2	83.355	14, 18, 27.
8527.4	83.355	14, 18, 27.
8530.6	83.355	14, 18, 27.
8533.8	83.355	14, 18, 27.
8537.0	83.355	14, 18, 27.
8540.2	83.355	14, 18, 27.
8543.4	83.355	14, 18, 27.
8546.6	83.355	14, 18, 27.
8549.8	83.355	14, 18, 27.
8553.0	83.355	14, 18, 27.
8556.2	83.355	14, 18, 27.
8559.4	83.355	14, 18, 27.
8562.6	83.355	14, 18, 27.
8565.8	83.355	14, 18, 27.
8569.0	83.355	14, 18, 27.
8572.2	83.355	14, 18, 27.
8575.4	83.355	14, 18, 27.
8578.6	83.355	14, 18, 27.
8581.8	83.355	14, 18, 27.
8585.0	83.355	14, 18, 27.
8588.2	83.355	14, 18, 27.
8591.4	83.355	14, 18, 27.
8594.6	83.355	14, 18, 27.
8597.8	83.355	14, 18, 27.
8601.0	83.355	14, 18, 27.
8604.2	83.355	14, 18, 27.
8607.4	83.355	14, 18, 27.
8610.6	83.355	14, 18, 27.
8613.8	83.355	14, 18, 27.
8617.0	83.355	14, 18, 27.
8620.2	83.355	14, 18, 27.
8623.4	83.355	14, 18, 27.
8626.6	83.355	14, 18, 27.
8629.8	83.355	14, 18, 27.
8633.0	83.355	14, 18, 27.
8636.2	83.355	14, 18, 27.
8639.4	83.355	14, 18, 27.
8642.6	83.355	14, 18, 27.
8645.8	83.355	14, 18, 27.
8649.0	83.355	14, 18, 27.
8652.2	83.355	14, 18, 27.
8655.4	83.355	14, 18, 27.
8658.6	83.355	14, 18, 27.
8661.8	83.355	14, 18, 27.
8665.0	83.355	14, 18, 27.
8668.2	83.355	14, 18, 27.
8671.4	83.355	14, 18, 27.
8674.6	83.355	14, 18, 27.
8677.8	83.355	14, 18, 27.
8681.0	83.355	14, 18, 27.
8684.2	83.355	14, 18, 27.
8687.4	83.355	14, 18, 27.
8690.6	83.355	14, 18, 27.
8693.8	83.355	14, 18, 27.
8697.0	83.355	14, 18, 27.
8700.2	83.355	14, 18, 27.
8703.4	83.355	14, 18, 27.
8706.6	83.355	14, 18, 27.
8709.8	83.355	14, 18, 27.
8713.0	83.355	14, 18, 27.
8716.2	83.355	14, 18, 27.
8719.4	83.355	14, 18, 27.
8722.6	83.355	14, 18, 27.
8725.8	83.355	14, 18, 27.
8729.0	83.355	14, 18, 27.
8732.2	83.355	14, 18, 27.
8735.4	83.355	14, 18, 27.
8738.6	83.355	14, 18, 27.
8741.8	83.355	14, 18, 27.
8745.0	83.355	14, 18, 27.
8748.2	83.355	14, 18, 27.
8751.4	83.355	14, 18, 27.
8754.6	83.355	14, 18, 27.
8757.8	83.355	14, 18, 27.
8761.0	83.355	14, 18, 27.
8764.2	83.355	14, 18, 27.
8767.4	83.355	14, 18, 27.
8770.6	83.355	14, 18, 27.
8773.8	83.355	14, 18, 27.
8777.0	83.355	14, 18, 27.
8780.2	83.355	14, 18, 27.
8783.4	83.355	14, 18, 27.
8786.6	83.355	14, 18, 27.
8789.8	83.355	14, 18, 27.
8793.0	83.355	14, 18, 27.
8796.2	83.355	14, 18, 27.
8799.4	83.355	14, 18, 27.
8802.6	83.355	14, 18, 27.
8805.8	83.355	14, 18, 27.
8809.0	83.355	14, 18, 27.
8812.2	83.355	14, 18, 27.
8815.4	83.355	14, 18, 27.
8818.6	83.355	14, 18, 27.
8821.8	83.355	14, 18, 27.
8825.0	83.355	14, 18, 27.
8828.2	83.355	14, 18, 27.
8831.4	83.355	14, 18, 27.
8834.6	83.355	14, 18, 27.
8837.8	83.355	14, 18, 27.
8841.0	83.355	14, 18, 27.
8844.2	83.355	14, 18, 27.
8847.4	83.355	14, 18, 27.
8850.6	83.355	14, 18, 27.
8853.8	83.355	14, 18, 27.
8857.0	83.355	14, 18, 27.
8860.2	83.355	14, 18, 27.
8863.4	83.355	14, 18, 27.
8866.6	83.355	14, 18, 27.
8869.8	83.355	14, 18, 27.
8873.0	83.355	14, 18, 27.
8876.2	83.355	14, 18, 27.
8879.4	83.355	14, 18, 27.
8882.6	83.355	14, 18, 27.
8885.8	83.355	14, 18, 27.
8889.0	83.355	14, 18, 27.
8892.2	83.355	14, 18, 27.
8895.4	83.355	14, 18, 27.
8898.6	83.355	14, 18, 27.
8901.8	83.355	14, 18, 27.
8905.0	83.355	14, 18, 27.
8908.2	83.355	14, 18, 27.
8911.4	83.355	14, 18, 27.
8914.6	83.355	14, 18, 27.
8917.8	83.355	14, 18, 27.
8921.0	83.355	14, 18, 27.
8924.2	83.355	14, 18, 27.
8927.4	83.355	14, 18, 27.
8930.6	83.355	14, 18, 27.
8933.8	83.355	14, 18, 27.
8937.0	83.355	14, 18, 27.
8940.2	83.355	14, 18, 27.
8943.4	83.355	14, 18, 27.
8946.6	83.355	14, 18, 27.
8949.8	83.355	14, 18, 27.
8953.0	83.355	14, 18, 27.
8956.2	83.355	14, 18, 27.
8959.4	83.355	14, 18, 27.
8962.6	83.355	14, 18, 27.
8965.8	83.355	14, 18, 27.
8969.0	83.355	14, 18, 27.
8972.2	83.355	14, 18, 27.
8975.4	83.355	14, 18, 27.
8978.6	83.355	14, 18, 27.
8981.8	83.355	14, 18, 27.
8985.0	83.355	14, 18, 27.
8988.2	83.355	14, 18, 27.
8991.4	83.355	14, 18, 27.
8994.6	83.355	14, 18, 27.
8997.8	83.355	14, 18, 27.
9001.0	83.355	14, 18, 27.
9004.2	83.355	14, 18, 27.
9007.4	83.355	14, 18, 27.
9010.6	83.355	14, 18, 27.
9013.8	83.355	14, 18, 27.
9017.0	83.355	14, 18, 27.
9020.2	83.355	14, 18, 27.
9023.4	83.355	14, 18, 27.
9026.6	83.355	14, 18, 27.
9029.8	83.355	14, 18, 27.
9033.0	83.355	14, 18, 27.
9036.2	83.355	14, 18, 27.
9039.4	83.355	14, 18, 27.
9042.6	83.355	14, 18, 27.
9045.8	83.355	14, 18, 27.
9049.0	83.355	14, 18, 27.
9052.2	83.355	14, 18, 27.
9055.4	83.355	14, 18, 27.
9058.6	83.355	14, 18, 27.
9061.8	83.355	14, 18, 27.
9065.0	83.355	14, 18, 27.
9068.2	83.355	14, 18, 27.
9071.4	83.355	14, 18, 27.
9074.6	83.355	14, 18, 27.
9077.8	83.355	14, 18, 27.
9081.0	83.355	14, 18, 27.
9084.2	83.355	14, 18, 27.
9087.4	83.355	14, 18, 27.
9090.6	83.355	14, 18, 27.
9093.8	83.355	14, 18, 27.
9097.0	83.355	14, 18, 27.
9100.2	83.355	14, 18, 27.
9103.4	83.355	14, 18, 27.
9106.6	83.355	14, 18, 27.
9109.8	83.355	14, 18, 27.

Miami, Fla.	2406	9	2442	9
	2031.5	None	2490	9
	2118	10	2514	5, 11
	2158	12	2550	12
		4072.4	33	4371.0
		4104.4	33	4408.0
		4117.3	33	4415.8
		4123.6	33	4422.3
		4126.8	33	4425.4

VETERANS ADMINISTRATION

[38 CFR Part 21]

EDUCATION BENEFITS

Liberalization in Educational Assistance and Vocational Rehabilitation Programs

The following regulatory provisions, implementing the provisions of Pub. L. 93-508 (88 Stat. 1578) and Pub. L. 93-602 (88 Stat. 1957), provide for increases in monthly rates and other liberalizations in the educational assistance and vocational rehabilitation programs.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received not later than June 9, 1975, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the

records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted pertaining to rate increases under Pub. L. 93-508 effective on September 1, 1974; loan provisions on January 1, 1975, and all other provisions on the date of enactment, December 3, 1974. Regulations that are adopted pertaining to rate increases under Pub. L. 93-602 will be effective January 1, 1975.

1. In § 21.132, paragraph (j) (1) is revised to read as follows:

§ 21.132 Reduction or discontinuance.

(j) *Error—payee's or administrative.*

(1) Effective date of award or day preceding act, whichever is later, but not prior to the date entitlement ceased, on an erroneous award based on an act of commission or omission by a payee or with his or her knowledge.

2. Section 21.133 is revised to read as follows:

§ 21.133 Rates.

(a) Subsistence allowance is payable at the following monthly rates effective September 1, 1974:

Type of training	Monthly rate of subsistence allowance			
	No dependent	1 dependent	2 dependents	More than 2 dependents
Institutional:				
Full time.....	\$301	\$349	\$203	\$21
¾ time.....	151	188	221	17
½ time.....	109	125	147	11
Institutional on-farm (IOF), apprentice or other on-job (OJT) (full time only).....	175	212	245	17
Combination (institutional and OJT) (full time only):				
Institutional ¾ time or more.....	201	249	293	21
Institutional less than ¾ time.....	175	212	245	17
Cooperative (full time only):				
Institutional full time.....	201	249	293	21
Business/industry full time.....	175	212	245	17

¹ For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.

(38 U.S.C. 1504(b); Public Law 93-508, 88 Stat. 1578.)

(b) Subsistence allowance is payable at the following monthly rates effective January 1, 1975:

Type of training	Monthly rate of subsistence allowance			
	No dependent	1 dependent	2 dependents	More than 2 dependents
Institutional:				
Full time.....	\$209	\$259	\$304	\$22
¾ time.....	157	194	229	17
½ time.....	105	130	152	11
Institutional on-farm (IOF), apprentice or other on-job (OJT) (full time only).....	182	220	254	17
Combination (institutional and OJT) (full time only):				
Institutional ¾ time or more.....	209	259	304	22
Institutional less than ¾ time.....	182	220	254	17
Cooperative (full time only):				
Institutional full time.....	209	259	304	22
Business/industry full time.....	182	220	254	17

¹ For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.

(38 U.S.C. 1504(b); Public Law 93-602, 88 Stat. 1957.)

3. In § 21.134, the introductory portion preceding paragraph (a) is revised to read as follows.

§ 21.134 Postrehabilitation pay.

Upon being rehabilitated, except under conditions stated in § 21.281(b) and (c), a lump-sum payment of 2 months' post-rehabilitation pay will be authorized as follows, based upon the rate of subsistence allowance the veteran was entitled to at the time his or her employability is determined:

4. Sections 21.135 and 21.136 are revised to read as follows:

§ 21.135 Specialized restorative training.

When specialized restorative training is prescribed for the sole purpose of enabling the veteran to retain employment in the occupation in which he or she is currently employed, the rate of subsistence allowance authorized may not exceed the difference between the veteran's current rate of pay and the rate which will be paid him or her upon completion of the prescribed course of specialized restorative training.

§ 21.136 Two-veteran cases; dependents.

The payment of additional subsistence allowance under § 21.133 to a veteran for a spouse who is also a veteran and for a child will not bar the payment of additional subsistence or educational assistance allowance under § 21.4136 to the spouse for his or her spouse and the same child.

5. In § 21.137, paragraph (c) is revised to read as follows:

§ 21.137 Apportionment.

(c) *Child adopted out of family.* Where evidence establishes that a veteran is the natural parent of a child or children legally adopted outside of the veteran's family, only such additional amount of subsistence allowance on account of the existence of such child or children will be apportioned in favor of the child or children. The veteran is not entitled in his or her own right to whatever additional amount of subsistence allowance is payable because of the existence of such child unless the veteran is contributing to the child's support.

6. In § 21.138, paragraphs (b) and (c) (2) and (3) are revised to read as follows:

§ 21.138 Advance payment.

(b) *Payment.* The amount of the payment is not to exceed the subsistence allowance for the month or fraction thereof in which the course will commence plus the subsistence allowance for the following month. Upon application and completion of arrangements for enrollment and if there is no evidence in the veteran's file showing that he or she is

not eligible for such an advance, the check, made payable to the veteran, shall be mailed to the institution for delivery to the veteran upon registration. No delivery shall be made more than 30 days in advance of commencement of his or her program. Subsequent payments shall be made each month in advance subject to information furnished by the Veterans Administration staff or the training facility. Final payment may be withheld until certification is received that the veteran pursued his or her course and any necessary adjustments made.

(c) * * *

(2) He or she has been accepted by the institution or is eligible to continue his or her training there;

(3) He or she has notified the institution of his or her intention to attend that institution or to re-enroll in it;

7. In § 21.145, paragraphs (a), (b) (1) and (2) and (d) are revised to read as follows:

§ 21.145 Veteran-student services.

(a) *Eligibility.* Veteran-students who are pursuing full-time programs of education or training under chapter 31 are eligible to receive a work-study allowance. In return for the veteran-student's agreement to perform services for the Veterans Administration totaling 250 hours during an enrollment period an allowance in the amount of \$625 will be paid. An advance payment of \$250 will be made for the first 100 hours agreed to be worked. Advances of lesser amounts may be made in return for agreements to perform services for periods of less than 100 hours.

(b) *Selection criteria.* Whenever feasible, veteran-students with disabilities rated at 30 percent or more are to be given priority in selection for this allowance. In addition the following selection criteria should be considered:

(1) Need of the veteran to augment his or her subsistence allowance;

(2) Availability to the veteran of transportation to the place where his or her services are to be performed;

(d) *Survey.* A survey of each regional office will be conducted annually to determine the number of veteran-students whose services can be effectively utilized.

8. In § 21.274, paragraph (b) is revised to read as follows:

§ 21.274 Authorization for travel for attendants.

(b) Persons not in regular civilian employment of the Federal Government may be authorized to act as attendants and will be furnished common-carrier transportation, meal and lodging requests, or, in lieu thereof, will be granted a mileage allowance. Such persons will be paid a fee, except when they are relatives of the veteran. A relative, for this purpose, means a spouse, parent, son or daughter, brother or sister, uncle or aunt, niece or nephew, by blood or marriage. Persons in the regular civilian employ-

ment of the Federal Government may be authorized to act as attendants and, when so assigned, will be entitled to transportation and expenses. They may be allowed per diem in lieu of subsistence in accordance with the provisions of Federal Travel Regulations. No fee will be paid to civilian employees of the Federal Government who act as attendants.

9. Section 21.278 is revised to read as follows:

§ 21.278 Tutoring.

All appropriate individualized tutoring at Government expense may be provided when, for a veteran to be successfully rehabilitated, there is need for special assistance beyond that given to other students pursuing the same or comparable courses.

10. Section 21.700 is revised to read as follows:

§ 21.700 Counseling disabled veterans.

(a) Counseling will be provided each disabled veteran who has basic eligibility for vocational rehabilitation and applies for training. The principal purpose of counseling will be to assist each veteran who needs vocational rehabilitation training to select a suitable vocational objective and plan for its achievement. Counseling psychologists will apply approved counseling principles and techniques in accordance with professional standards and practices.

(b) Counseling will be provided to assist a veteran in overcoming problems of personal adjustment which may interfere with his or her achieving, or deriving maximum benefit from, vocational rehabilitation. Such assistance will be provided by counseling psychologists whenever needed prior to entering training, while pursuing training, or in adjusting to employment following training.

(c) Each eligible disabled veteran who is homebound or hospitalized will be provided such counseling service as may be found appropriate to his or her physical or mental condition. This service will be provided through visits to the home of the veteran or through consultation with psychological and other personnel at Veterans Administration hospitals.

11. Section 21.701 is revised to read as follows:

§ 21.701 Need for vocational rehabilitation.

(a) A veteran having basic eligibility for whom training is found medically feasible may be afforded training if he or she is found in need of vocational rehabilitation because of the handicap of his or her service-connected disability.

(b) A veteran who has a service-connected disability of compensable degree which resulted from service in the Armed Forces on or after September 16, 1940, will be presumed to be in need of vocational rehabilitation. However, a veteran will be held not in need of training, if it is determined through counseling that he or she is employed or fully qualified for employment in a suitable occupation. An occupation in which a disabled veteran is employed or in which he or she could

obtain and hold employment, will be considered suitable when the following criteria are met:

(1) The occupation is one which is pursued by workers in the locality where the veteran resides; and

(2) The veteran can meet the requirements of the occupation with no great likelihood of aggravating the disability; and

(3) The occupation is one in which a trained worker normally pursues employment and earns a livelihood; and

(4) Job requirements are such that a period of training (over and beyond vestibule training) is required to secure and hold employment in it; and

(5) The occupation is consistent with the veterans' aptitudes, abilities, interests, and capacities.

(c) A veteran who has a service-connected disability for blindness or other serious disability arising out of service after September 16, 1940, will be determined to be in need of vocational rehabilitation in accordance with paragraph (b) of this section provided he or she has not been rehabilitated. If the veteran has been rehabilitated, it must be established that he or she is no longer able to perform the duties of the occupation for which he or she was rehabilitated because of the worsening of his or her service-connected disability since he or she was rehabilitated. For the purpose of this paragraph:

(1) Blindness is defined as visual acuity no better than 20/200 in the better eye after correction, or a field of vision restricted to an angle of 15 degrees or less.

(2) Serious disability encompasses all disabilities of 100 percent regular schedular evaluation for service-connected disability.

(3) Generally an evaluation of 70-90 percent will qualify as a serious disability.

(4) Fifty-sixty percent service-connected disability (including disability for visual impairment) may constitute a serious disability when related to employment potential.

(5) A rating of less than 50 percent will rarely constitute a serious disability for the purpose of this paragraph.

(6) In all cases a determination as to need will require consideration of the veteran's employment potential.

(d) The determination as to whether a disabled veteran is in need of vocational rehabilitation will be made by counseling psychologists in Veterans Services Divisions in field stations.

12. Section 21.705 is revised to read as follows:

§ 21.705 Noncooperation of disabled veterans.

When a disabled veteran fails or refuses to cooperate in the counseling process to the extent required to determine need for vocational rehabilitation or medical feasibility of training, or refuses to select an employment objective which is considered suitable for vocational rehabilitation purposes, action will be suspended on his or her application until his or her cooperation can be obtained.

13. In § 21.711, paragraph (a) is revised to read as follows:

§ 21.711 Redeterminations as to need.

(a) *Prior to induction into training.* When a determination has been made that a disabled veteran needs vocational rehabilitation, this decision will not be changed unless there is (1) unmistakable error of fact or law; or (2) there is new and material evidence which justifies a change. This will apply to determinations made by counseling psychologists in Veterans Services Divisions while on authorized visit to a Veterans Administration hospital as well as to determinations made at other Veterans Administration counseling locations. When a veteran requests induction into vocational rehabilitation training after having declined such training, or after a determination was made that he or she did not need such training, a redetermination as to need will be made in order to consider whether conditions basic to such determination have changed.

14. In § 21.715, paragraph (a) is revised to read as follows:

§ 21.715 Seriously handicapped veterans.

(a) It is the policy of the Veterans Administration to bring all applicable specialized resources effectively to bear upon the vocational rehabilitation of seriously handicapped veterans. To this end, the field station will utilize the services of staff specialists of the nearest Department of Medicine and Surgery clinic or hospital as well as of the Veterans Services and Adjudication Divisions. For this purpose the station head will establish a Vocational Rehabilitation Board comprised of a counselor as chairman; a vocational rehabilitation specialist; a medical consultant; and a member of the Social Service staff. Other Department of Medicine and Surgery staff specialists will participate as consultants in individual cases whenever the Board has need of their services.

15. In § 21.1021, paragraphs (b), (d), and (e) are revised to read as follows:

§ 21.1021 Definitions.

(b) "Active duty" means active duty as defined in § 3.6(b), except (b)(4) of this chapter. It also includes the initial period of active duty for training in the Reserves or National Guard pursuant to Section 511(d), title 10, United States Code, served subsequent to January 31, 1955 provided that at some time subsequent to the completion of such period of active duty for training the veteran serves on active duty for a consecutive period of 1 year or more (excluding service as a cadet or midshipman at one of the service academies). (38 U.S.C. 1652 (a)(3), 1682(b)). See §§ 21.1040, 21.1042, and 21.1136. This term does not include periods of excess leave without pay.

(d) "Educational assistance allowance" includes training assistance allow-

ance based on apprentice or other on-the-job training. (38 U.S.C. 1684)

(e) "Unit" means not less than one hundred and twenty 60-minute hours or their equivalent of study in any high school subject in 1 academic year. (38 U.S.C. 1788)

16. Section 21.1022 is revised to read as follows:

§ 21.1022 Nonduplication. 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under chapter 34 and is also eligible for vocational rehabilitation under chapter 31 or educational assistance under chapter 35 must elect which benefit he or she will receive. The election is subject to the conditions specified in § 21.4022.

17. In § 21.1040, paragraphs (a), the introductory text of (b) and (e) preceding subparagraph (1), and (e)(2) are revised to read as follows:

§ 21.1040 Basic eligibility.

Basic eligibility for educational assistance is subject to the following requirements.

(a) *Service.* The veteran must have served on active duty for a continuous period of 181 days or more, any part of which occurred on or after February 1, 1955, or if he or she served for less than 181 days, must have been discharged or released on or after February 1, 1955, because of service-connected disability. Traveltime which meets the requirements of § 3.6(b)(6) of this chapter may be included.

(b) *Periods excluded.* In computing the 181 days service, there will be excluded any period during which he or she:

(e) *Persons on active duty.* Educational assistance may be afforded a person while on active duty if he or she:

(2) Meets the requirements of paragraphs (a) and (b) of this section, and has served a total of 181 days or more on active duty, any part of which occurred on or after February 1, 1955, excluding periods of time specified in § 3.15 of this chapter. Educational assistance otherwise payable may be provided under this subparagraph so long as he or she continues on active duty, or

18. In § 21.1041, paragraphs (a) (1) and (2) and (d) are revised to read as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* (1) A veteran with less than 18 months active duty service or a person on active duty who meets the requirements of § 21.1040 will be entitled to full-time educational assistance for a period computed on the basis of 1½ months (or the equivalent in part-time educational assistance) for each month or fraction of month of service on active duty on or after February 1, 1955, but not in excess of 36 months, except as provided in paragraph (d) of this section. There will be excluded from the period of en-

titlement the periods specified in § 21.1040 (b) and (c).

(2) A veteran who has served a continuous period of not less than 18 months on active duty on or after February 1, 1955, and who has been released from such service under conditions that satisfied his or her active duty obligation, will be entitled to full-time educational assistance for a period of 36 months (or the equivalent in part-time educational assistance) and any additional period authorized under paragraph (d) of this section. The periods specified in § 21.1040 (b) will be excluded in computing the 18-months period.

(d) *Extension.* The period of entitlement, including the 36-months period, may be extended, but not beyond the 10-year delimiting date specified in § 21.1042:

(1) To the end of a term, quarter or semester in a school regularly operated on a term, quarter or semester system, when the period of entitlement ends during the term, quarter or semester.

(2) To the end of the course or for 12 weeks, whichever is less, in all other schools, when the period of entitlement ends after more than half of the course has been completed. In a course consisting exclusively of flight training and in a course pursued exclusively by correspondence, the period of entitlement will be extended to the end of the course or for the total additional amount of instruction that \$728, effective September 1, 1974 and \$756, effective January 1, 1975, will provide, whichever is less. (38 U.S.C. 1661)

(3) No extension of the period of entitlement will be made where training is pursued in a training establishment as defined in § 21.4200(c).

(4) An extension, not to exceed 9 months, will be granted to be utilized in pursuit of a program of education leading to a standard undergraduate college degree. This includes a program of education leading to a first professional degree. If an extension had previously been granted under paragraph (d)(1) of this section the period of such extension will be deducted from any extensions to be authorized under this subparagraph. However, if the student qualifies for an extension under paragraph (d)(1) of this section at the expiration of any extension granted under this subparagraph, the extension will be granted. Only a student pursuing a standard undergraduate college degree at the time that his or her basic 36 months entitlement is exhausted shall qualify for this extension. Furthermore, only that amount of extension as is required to obtain the degree or complete the minimal requirements for the degree shall be allowed, not to exceed 9 months or the equivalent in part-time assistance. The extension must be utilized for the same program which was being pursued on the date basic entitlement expired.

19. In § 21.1045, paragraphs (a)(2) and (b)(2) are revised to read as follows:

§ 21.1045 Entitlement charges.

(a) *Residence courses.* * * *

(2) *Flight training courses; chapter 34.* A charge against the period of entitlement for a program consisting exclusively of flight training will be made on the basis of 1 month for each \$260, effective September 1, 1974, and \$270, effective January 1, 1975, which is paid to the veteran as an educational assistance allowance for such course. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter. (38 U.S.C. 1677(b); Pub. L. 93-508, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1957)

(b) *Correspondence courses.* * * *

(2) *Other courses.* Except as provided in paragraph (b) (1) of this section, the period of entitlement of any eligible veteran who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each \$175 paid to the veteran as an educational assistance allowance for such course, for contracts entered into before January 1, 1973. For agreements entered into after December 31, 1972, the period of entitlement of any eligible veteran, wife, husband, widow, or widower who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each \$220 paid before September 1, 1974, to the veteran, wife, husband, widow, or widower as an educational assistance allowance for such course. For payments made on or after September 1, 1974, the charge will be 1 month for each \$260 paid and for payments made on or after January 1, 1975, the charge will be 1 month for each \$270 paid. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter. (38 U.S.C. 1786(a) (2); Pub. L. 93-508, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1957)

20. In § 21.3046, paragraph (c) is revised to read as follows:

§ 21.3046 Periods of eligibility; wives, husbands, widows, and widowers.

(c) *Extension to ending date.* Wife or husband is enrolled and eligibility ceases for a reason specified in paragraph (c) (1), (2) or (3) of this section: extended to end of quarter or semester for schools operating on quarter or semester system, or for schools not operating on quarter or semester system, to end of course or for 9 weeks, whichever is earlier. In a course pursued exclusively by correspondence, the period of eligibility will be extended to the end of the course or for the total additional amount of instruction that \$546, effective September 1, 1974, and \$567, effective January 1, 1975 (Pub. L.

93-508, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1957) will provide whichever is less. No extension may exceed maximum entitlement or extend beyond the 10-year delimiting date specified in paragraph (a) of this section. Extension is authorized without regard to whether the midpoint of the quarter, semester or term has been reached. No extension of the period of eligibility will be made where training is pursued in a training establishment as defined in § 21.4200(c).

(1) Veteran is no longer rated permanently and totally disabled.

(2) Wife or husband is divorced from veteran without fault on her or his part.

(3) Spouse no longer is listed in any of the categories of § 21.3021(a) (3) (ii). (38 U.S.C. 1711(b), 1712(b), 1732, 1786)

21. In § 21.3300, paragraph (c) is revised to read as follows:

§ 21.3300 Special restorative training.

(c) Special restorative training may be provided in excess of 36 months where an additional period of time is needed to complete such training. Entitlement, including any authorized in excess of 36 months, may be expended through an accelerated program requiring a rate of payment in excess of \$82, effective September 1, 1974 and \$85, effective January 1, 1975, per calendar month. See §§ 21.3303 and 21.333 (b).

(38 U.S.C. 1741(b), 1742; Pub. L. 93-508, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1957)

22. In § 21.3301, paragraph (a) (2) is revised to read as follows:

Course	Monthly rate	Accelerated charges
Special restorative training.	\$260 effective Sept. 1, 1974, \$270 effective Jan. 1, 1975.	If costs for tuition and fees average in excess of \$82, effective Sept. 1, 1974, and \$85 effective Jan. 1, 1975, per-month rate may be increased by such amount in excess of \$82 effective Sept. 1, 1974, and \$85 effective Jan. 1, 1975.

(b) *Accelerated charges.* The additional monthly rate may be paid if the parent or guardian concurs in having the eligible person's period of entitlement reduced by 1 day for each \$8.69, effective September 1, 1974, and \$9.02, effective January 1, 1975, that the special training allowance exceeds the basic monthly rate of \$260, effective September 1, 1974, and \$270, effective January 1, 1975. Fractions of more than one-half day will be charged as 1 day; fractions of one-half or less will be disregarded. Charges will be recorded when the eligible person is entered into training. (38 U.S.C. 1742; Pub. L. 93-508, 88 Stat. 1578; Pub. L. 93-602, 88 Stat. 1957)

25. In § 21.4001, paragraphs (a), (d), and (e) are revised and paragraph (f) is added so that the revised and added material reads as follows:

§ 21.4001 Delegations of authority.

(a) Except as otherwise provided, authority is delegated to the Chief Benefits Director and to supervisory or adjudicative personnel within the jurisdiction of the Education and Rehabilitation Serv-

§ 21.3301 Need.

(a) When the case of a handicapped person is referred to the Vocational Rehabilitation Board, because of a request by a parent or guardian or upon recommendation of a counselor, the board will determine whether:

(2) It is in the best interests of an eligible person to begin special restorative training after having reached his or her 14th birthday;

23. In § 21.3330, paragraph (b) (1) is revised to read as follows:

§ 21.3330 Payments.

(b) The special training allowance will be paid only for the period of the eligible person's approved enrollment as certified by the vocational rehabilitation specialist. In no event, however, will such allowance be paid for any period during which:

(1) The eligible person is not pursuing the prescribed course of special restorative training that has been determined to be full-time training with respect to his or her capacities.

24. In § 21.3333, paragraphs (a) and (b) are revised to read as follows:

§ 21.3333 Rates.

(a) *Rates.* Special training allowance is payable at the following monthly rate except as provided in paragraph (c) of this section.

ice designated by him or her to make findings and decisions under 38 U.S.C. chs. 34, 35 and 36 and the applicable regulations, precedents and instructions, as to programs authorized by these paragraphs.

(d) The Chief Benefits Director is delegated responsibility for obtaining evidence of voluntary compliance for vocational rehabilitation, education and special restorative training to implement title VI, Civil Rights Act of 1964. Authority is delegated to him or her and designee to take any necessary action as to programs of vocational rehabilitation, education or special restorative training under 38 U.S.C. chs. 31, 34, 35 and 36 for the purpose of securing evidence of voluntary compliance directly or through the agencies to whom the Administrator has delegated responsibility for various schools or training establishments to implement Part 18 of this chapter.

(e) The Chief Benefits Director is delegated responsibility for obtaining evidence of voluntary compliance from recognized national organizations whose representatives are afforded space and

office facilities in field stations under his or her jurisdiction.

(f) The Chief Benefits Director is delegated responsibility to enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, to carry out investigations and make determinations as to enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation. (38 U.S.C. 1796; Pub. L. 93-508, 88 Stat. 1578)

26. In § 21.4005, paragraph (a) (1) and (2) is revised to read as follows:

§ 21.4005 Conflicting interests.

(a) General. (1) Every officer or employee of the Veterans Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 38 U.S.C. chapter 34, 35, or 36 will be immediately dismissed from his or her office or employment.

(2) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he or she was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under chapter 34, 35, or 36; payments under § 21.4153 to such State approving agency will be discontinued unless such agency takes, without delay, such steps as may be necessary to terminate the employment of such person and payments will not be resumed while such person is an officer or employee of the State approving agency, or State Department of Veterans' Affairs or State Department of Education.

27. In § 21.4136, paragraphs (a), (b), and (c) are revised to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

(a) Rates. (1) Educational assistance allowance is payable at the following monthly rates effective September 1, 1974:

Type of courses	Monthly rate			
	No depend- ent	1 dependent	2 depend- ents	Additional for each additional dependent
Institutional:				
Full time	\$270	\$321	\$366	\$22
$\frac{3}{4}$ time	203	240	275	17
$\frac{1}{2}$ time	135	100	182	11
Less than $\frac{1}{2}$ but more than $\frac{1}{4}$ time ¹	\$130			
$\frac{1}{4}$ time or less	65			
Cooperative, other than farm cooperative (full time only)	217	255	280	17
Apprentice or on-job (full time only but see footnote ² below)				
Payment designated training assistance allowance:				
1st 6 mo.	189	212	232	9
2d 6 mo.	142	164	184	9
3d 6 mo.	95	117	137	9
4th 6 mo and succeeding periods	47	70	90	9
Correspondence	90 per centum of the established charge for number of lessons completed by veteran and serviced by school ⁴ — Allowance paid quarterly.			
Flight training	90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay— Allowance paid monthly based on actual flight training received.			
Farm cooperative:				
Full time	217	255	280	17
$\frac{3}{4}$ time	163	191	218	13
$\frac{1}{2}$ time	109	128	145	9

¹ If a veteran under Ch. 34 or an eligible person under Ch. 35 receiving benefits under § 21.4290(b)(2) completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$130 per month if the maximum allowance was not initially authorized.

² See par. (b) of this section.

³ See footnote 3 of § 21.4270(c) for measurement of full time and par. (i) of this section for proportionate reduction in award for completion of less than 120 h per month.

⁴ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran whichever is the lesser. Enrollments before Jan. 1, 1973, will receive 100 percent of the established charges.

(38 U.S.C. 1677, 1682, 1786, 1787; Public Law 93-508, 88 Stat. 1578.)

(2) Educational assistance allowance is payable at the following monthly rates effective January 1, 1975:

Type of courses	Monthly rate			
	No depend- ent	1 dependent	2 depend- ents	Additional for each additional dependent
Institutional:				
Full time.....	\$270	\$321	\$366	\$22
$\frac{3}{4}$ time.....	203	240	275	17
$\frac{1}{2}$ time.....	135	160	182	11
Less than $\frac{1}{2}$ but more than $\frac{1}{4}$ time ¹	² 135			
$\frac{1}{4}$ time or less.....	² 68			
Cooperative, other than farm cooperative (full time only).....	217	255	289	17
Apprentice or on-job (full time only but see footnote 3 below).....				
Payment designated training assistance allowance:				
1st 6 mo.....	196	230	240	10
2d 6 mo.....	147	171	191	10
3rd 6 mo.....	98	122	142	10
4th 6 mo and succeeding periods.....	49	73	98	10
Correspondence.....	90 percent of the established charge for number of lessons completed by veteran and serviced by school ⁴ —Allowance paid quarterly.			
Flight training.....	90 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay—Allowance paid monthly based on actual flight training received.			
Farm cooperative:				
Full time.....	217	255	289	17
$\frac{3}{4}$ time.....	163	191	218	13
$\frac{1}{2}$ time.....	109	128	145	9

¹ If a veteran under ch. 34 or an eligible person under ch. 35 receiving benefits under § 21.4280(b)(2) completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$185 per month if the maximum allowance was not initially authorized.

² See par. (b) of this section.

³ See footnote 3 of § 21.4270(e) for measurement of full time and par. (f) for proportionate reduction in award for completion of less than 120 h per month.

⁴ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran whichever is the lesser. Enrollments before Jan. 1, 1973, will receive 100 percent of the established charges.

(38 U.S.C. 1677, 1682, 1786, 1787; Public Law 93-508, 88 Stat. 1578; Public Law 93-602, 88 Stat. 1957.)

(b) *Less than half-time.* The monthly rate for an individual who is pursuing an institutional course on less than one-half time basis may not exceed the monthly rate of the cost of the course, computed on the total cost for tuition and fees which the school requires similarly circumstanced nonveterans enrolled in the same course to pay. "Cost of the course" does not include the cost of supplies which the student is required to purchase at his or her own expense.

(c) *Active duty.* The monthly rate for an individual who is pursuing a program of education while on active duty may not exceed the monthly rate of the cost of the course as specified in paragraph (b) of this section. For the purpose of a course pursued under the provisions of § 21.4235(a)(1) "cost of the course" shall include the cost of books and supplies peculiar to the course which the institution requires similarly circumstanced nonveterans enrolled in the same or a similar course to have. Where there is no same program, the cost of the course will be established by the Veterans Administration based on a report

from the State approving agency showing the estimated cost for operation of the program and the anticipated enrollment. Subject to these limitations, the rate will be:

Measurement	Rates	
	Effective Sept. 1, 1974	Effective Jan. 1, 1975
Full time.....	\$260	\$270
$\frac{3}{4}$ time.....	195	203
$\frac{1}{2}$ time.....	130	135
Less than $\frac{1}{2}$, but more than $\frac{1}{4}$ time.....	130	135
$\frac{1}{4}$ time or less.....	65	68

(38 U.S.C. 1682; Public Law 93-508, 88 Stat. 1579 and Public Law 93-602, 88 Stat. 1957.)

28. In § 21.4137, paragraphs (a), (b), and (g) (2) and (3) (iii) are revised to read as follows:

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. ch. 35.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates:

Type of courses	Monthly rate	
	Public Law 93-508— Effective Sept. 1, 1974	Public Law 93-602— Effective Jan. 1, 1975
Institutional:		
Full time.....	\$270	\$270
$\frac{3}{4}$ time.....	203	203
$\frac{1}{2}$ time.....	135	135
Less than $\frac{1}{2}$ but more than $\frac{1}{4}$ time.....	130	135
$\frac{1}{4}$ time or less.....	65	68
Cooperative, other than farm cooperative (full time only).....	200	217
Apprentice or on-job (full time only but see footnote 1 below).....		
Payment designated training assistance allowance:		
1st 6 mo.....	180	196
2d 6 mo.....	142	147
3d 6 mo.....	95	98
4th 6 mo and succeeding periods.....	47	49
Farm cooperative:		
Full time.....	217	217
$\frac{3}{4}$ time.....	163	163
$\frac{1}{2}$ time.....	109	109
Correspondence:		
90 per centum of the established charge for number of lessons completed by eligible wife, husband, widow, or widower and serviced by the school ² —Allowance paid quarterly.....		

¹ See footnote 5 of § 21.4270(g) for measurement of full time and par. (f) of this section for proportionate reduction in award for completion of less than 120 hrs per month.

² Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible wife, husband, widow, or widower whichever is the lesser.

(38 U.S.C. 1682, 1732, 1786, 1787; Public Law 93-508, 88 Stat. 1579; Public Law 93-602, 88 Stat. 1957.)

(b) *Less than half-time.* The monthly rate for an individual who is pursuing an institutional course on less than one-half time basis may not exceed the monthly rate of the cost of the course, computed on the total cost for tuition and fees which the school requires similarly circumstanced individuals enrolled in the same course to pay. "Cost of the course" does not include the cost of books or supplies which the student is required to purchase at his or her own expense. (38 U.S.C. 1732(a)(2))

(g) *Advance payment.* * * *

(2) *Payment.* The amount of the payment is not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Upon receipt of an application, together with

an enrollment certification or other information as required by paragraph (g) (3) of this section and if there is no evidence in the eligible person's file showing that he or she is not eligible for such an advance, the check, made payable to the eligible person, shall be mailed to the institution for delivery to the eligible person upon registration. No delivery shall be made more than 30 days in advance of commencement of the program. Subsequent payments shall be made each month in advance subject to certification requirements set out in §§ 21.4138, 21.4203, 21.4204, and 21.4205. Final payment will be withheld if absence reporting is required until the required certification is received and any necessary adjustments made.

(3) *Certification.* Advance payment will be authorized initially and at the beginning of each subsequent term within an enrollment period preceded by an interval of non-payment for one full calendar month or more provided the application, enrollment certification or other document signed either by an authorized official of the institution or the eligible person contains the following information:

(iii) The eligible person has notified the institution of his or her intention to attend that institution or to reenroll in it;

29. In § 21.4138, paragraphs (b) and (c) are revised to read as follows:

§ 21.4138 *Certifications.*

Educational assistance allowance will be paid to or on behalf of a veteran or eligible person under chapter 34 or 35 on the basis of a certification as required in §§ 21.4136, 21.4137, 21.4203, 21.4204, and 21.4205 concerning enrollment in or the pursuit of a course during the reporting period. For institutional courses not leading to a standard college degree:

(b) Where a course is pursued by an eligible person or an eligible veteran not on active duty and on a half-time or greater basis, an application from such eligible person or veteran certifying that he or she will be enrolled will be sufficient to release payment of educational assistance allowance representing the initial payment of an enrollment period, not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Subsequent payments shall be made each month in advance subject to submission of reports from the eligible person or veteran and the school as required by §§ 21.4203, 21.4204, and 21.4205. Payment for the last month of the enrollment period will be released upon receipt of the final certification required by §§ 21.4203 and 21.4205.

(c) Where a course is pursued by a serviceman or servicewoman on active duty on a half-time or greater basis, or by a serviceman or servicewoman training under the predischARGE education program, a certification by the school

that the serviceman or servicewoman will be enrolled will be sufficient to release payment in a lump sum not earlier than 30 days prior to the date the serviceman's or servicewoman's program of training will begin.

30. In § 21.4139, paragraphs (a) and (b) (1) are revised to read as follows:

§ 21.4139 *Payee.*

(a) *Educational assistance allowance—Chapter 34.* Payment will be made to the veteran or to a duly appointed fiduciary. Direct payment to the veteran may be made notwithstanding his or her minority.

(b) *Educational assistance allowance—Chapter 35.* (1) Payment will be made to the eligible person if he or she has attained majority and has no known legal disability or, notwithstanding minority, where it is found to be in his or her best interests unless there is some known reason why he or she should not be designated as payee.

31. In § 21.4145, paragraphs (a), (b) (1) and (2), and (d) are revised to read as follows:

§ 21.4145 *Veteran-student services.*

(a) *Eligibility.* Veteran-students who are pursuing full-time programs of education or training under chapter 34 are eligible to receive a work-study allowance. In return for the veteran-student's agreement to perform services for the Veterans Administration totaling 250 hours during an enrollment period an

allowance in the amount of \$625 will be paid. An advance payment of \$250 will be made for the first 100 hours agreed to be worked. Advances of lesser amounts may be made in return for agreements to perform services for periods of less than 100 hours.

(b) *Selection criteria.* Whenever feasible, veteran-students with disabilities rated at 30 percent or more are to be given priority in selection for this allowance. In addition the following selection criteria should be considered:

(1) Need of the veteran to augment his or her subsistence allowance;

(2) Availability to the veteran of transportation to the place where his or her services are to be performed;

(d) *Survey.* A survey of each regional office will be conducted annually to determine the number of veteran-students whose services can be effectively utilized.

32. In § 21.4153, paragraph (c) (3) is revised to read as follows:

§ 21.4153 *Reimbursement of expenses.*

(c) *Reimbursable expenses.**

(3) *Administrative expenses.* An allowance for administrative expenses for which payment may be authorized will be determined in accordance with the formula contained in this subparagraph. Salary cost includes basic salary plus fringe benefits such as Social Security, retirement, and health, accident or life insurance which is provided all similarly circumstanced State employees.

Total salary cost reimbursable	Allowable for administrative expense
\$5,000 or less	\$550.
Over \$5,000 but not exceeding \$10,000	\$1,000.
Over \$10,000 but not exceeding \$35,000	\$1,000 for the first \$10,000 plus \$925 for each additional \$5,000 or fraction thereof.
Over \$35,000 but not exceeding \$40,000	\$6,050.
Over \$40,000 but not exceeding \$75,000	\$6,050 for the first \$40,000 plus \$800 for each additional \$5,000 or fraction thereof.
Over \$75,000 but not exceeding \$80,000	\$12,000.
Over \$80,000	\$12,000 for the first \$80,000 plus \$700 for each additional \$5,000 or fraction thereof.

33. In § 21.4200, paragraphs (e) and (f) are added to read as follows:

§ 21.4200 *Definitions.*

(e) *Standard college degree.* The term means an associate or higher degree awarded by:

(1) An institution of higher learning that is accredited as a collegiate institution by a recognized accrediting agency (there are seven agencies that grant such accreditation: six regional accrediting associations and the Board of Regents, New York State); or

(2) An institution of higher learning that is a "candidate" for accreditation, as that term is used by the six regional accrediting associations; or

(3) An institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs.

(f) *Undergraduate college degree.* The term means a college or university degree

obtained through the pursuit of unit subjects which are below the graduate level. Included are associate degrees, bachelors' degrees and first professional degrees.

34. In § 21.4202, paragraph (c) (1) is revised to read as follows:

§ 21.4202 *Overcharges; restrictions on enrollments.*

(c) *Restrictions; proprietary schools.*

(1) Enrollment under chapter 34 will not be approved for any veteran, not already enrolled, in any course not leading to a standard college degree other than one offered pursuant to special assistance for the educationally disadvantaged or the predischARGE education program offered by a proprietary school other than a job training establishment during any period when more than 85 percent of the students enrolled in the course are having all or any part of their tuition, fees, or other charges paid to or for them by the

school or the Veterans Administration under chapters 31, 34, 35, or 36 (38 U.S.C. 1673(d)).

35. In § 21.4203, paragraph (b) (3) is revised to read as follows:

§ 21.4203 Reports by schools; requirements.

(b) Entrance or reentrance.

(3) Where the veteran or eligible person is enrolling in a farm cooperative course, the school's certification will include a report of the dates of the pre-scheduled classroom instruction.

36. In § 21.4205, paragraph (c) (1) and (4) is revised to read as follows:

§ 21.4205 Absences.

(c) *Reporting.* (1) Veterans and eligible persons must report each full day of absence from scheduled attendance as well as days when the school was closed for local and school holidays and, if reported enrollment was on an ordinary school year basis, intervals between terms, quarters or semesters. When the school is closed for the weekend, those days will not be reported nor will legal holidays established by Federal or State law or customary vacation periods connected with them be reported if the school is closed. These customary vacation periods will be reasonable periods identified as a holiday vacation on the school approval literature. Generally a reasonable period will be interpreted to mean not more than 1 calendar week at Christmas and at New Years and shorter periods of time in connection with other legal holidays. However, if classes are normally scheduled for Saturday and Sunday, absences must be reported. At the discretion of the Administrator, days of absence will not be reported for days of nonattendance within a certified period of enrollment during which the school is closed under an established policy based upon an Executive order of the President or due to an emergency situation.

(4) For a farm cooperative course the absences to be reported by the veteran or eligible person and verified by the school will be those days of nonattendance which occur during a period of the pre-scheduled classroom instruction.

37. In § 21.4206, the introductory text preceding paragraph (a) and paragraphs (a) and (b) are revised to read as follows:

§ 21.4206 Reporting fee.

The Veterans Administration may pay annually to each educational institution furnishing education or each joint apprenticeship training committee acting as a training establishment under 38 U.S.C. ch. 34, 35, or 36 a reporting fee for required reports or certifications. The reporting fee will be paid as soon as feasible after the end of the calendar year.

(a) Except as provided in paragraph (b) of this section, the reporting fee will be computed for each calendar year by multiplying \$3 by the number of eligible veterans and eligible persons enrolled under chapter 34, chapter 35, or chapter 36 on October 31 of that year.

(b) For any school or joint apprenticeship training committee where the peak enrollment of veterans and eligible persons varies more than 15 percent from the enrollment on October 31, another date may be established as representative of peak enrollment. (38 U.S.C. 1784(b); Pub. L. 93-508; 88 Stat. 1578)

38. In § 21.4208, paragraph (a) is revised to read as follows:

§ 21.4208 Central Office Education and Training Review Panel.

(a) *Purpose.* The panel will receive evidence and hear the testimony of witnesses and the arguments of interested parties regarding matters considered by the field station Committee on Educational Allowances and make recommendations to the Director, Education and Rehabilitation Service, in connection with such matters which are before him or her for final administrative determination under § 21.4202 or 21.4207.

39. In § 21.4230, paragraph (c) is revised to read as follows:

§ 21.4230 Requirements.

(c) *Selection; chapter 34.* A program of education under chapter 34 selected by an eligible veteran or serviceman or servicewoman will be approved if it meets the requirements of paragraph (a) or (b) of this section and the veteran or serviceman or servicewoman is not already qualified for the objective for which the program of education is offered, except:

(1) A course or courses at the secondary school level for persons who have previously received a secondary school diploma or an equivalency certificate and deficiency courses needed or required to qualify for an educational or training program may be authorized under the provisions of § 21.4235, and

(2) An eligible veteran may receive up to 6 months educational assistance, or the equivalent in part-time assistance, for training in a program of education in which the veteran is already qualified, provided that the program pursued is refresher training to permit the veteran to update knowledge and skills and to be instructed in the technological advances which have occurred in the veteran's field of employment during and since the veteran's period of service. The program of education must be a course to be taken after the date of the veteran's discharge or release from active duty. It may be to update skills learned either during or prior to service but not for skills first acquired after discharge from service. Educational assistance allowance paid under this subparagraph will be

charged against the veteran's basic entitlement.

40. In § 21.4233, the introductory portion preceding paragraph (a) and paragraph (d) are revised to read as follows:

§ 21.4233 Combination.

An approved program may consist of a combination of courses with instruction offered by a school alternating with instruction in a business or industrial establishment (a cooperative course); courses offered by two schools concurrently; or courses offered through class attendance and by television concurrently. A farm cooperative program may be approved which consists of a combination of institutional agricultural courses and concurrent agricultural employment (see § 21.4264). A school may contract the actual training to another school or entity, provided the course is approved by the State approving agency having approval jurisdiction of the school or entity which actually provides the training.

(d) *Farm cooperative course.* A program of education consisting of institutional agricultural courses pursued by a veteran or other eligible person who is concurrently engaged in agricultural employment which is relevant to such institutional course may be approved if the course meets the requirements of § 21.4264.

41. In § 21.4236, paragraphs (c) and (d) are revised to read as follows:

§ 21.4236 Special supplemental assistance (tutorial).

(c) *Educational assistance allowance.* In addition to payment of educational assistance allowance at the monthly rates specified in § 21.4136 or 21.4137 the cost of such tutorial assistance in an amount not to exceed \$60 per month will be authorized.

(d) *Entitlement charge.* No charge will be made against the period of the veteran's entitlement as computed under § 21.1041 or the eligible person's entitlement as computed under § 21.3044. Special supplemental assistance provided under this section will not exceed a maximum of \$720. (38 U.S.C. 1690, 1692, 1693; Pub. L. 93-508; 88 Stat. 1578)

42. In § 21.4251, paragraph (g) is revised to read as follows:

§ 21.4251 Period of operation of course.

(g) *Period of operation of pre-discharge education program courses.* Any course as contemplated in § 21.4235(a)(1) which is established under § 21.4260 (b) (2) will be accepted as having been in operation for the 2-year period if it is similar in character to one which the institution has had in operation for a 2-year period at its parent location.

43. In § 21.4252, paragraphs (b) introduction, (b) (4), (e), (f) (1) and (2),

(g) and (h) are revised to read as follows:

§ 21.4252 Courses precluded.

(b) *Avocational and recreational.* Enrollment will not be approved in any course which is avocational or recreational in character or the advertising for which contains significant avocational or recreational themes. The courses identified in paragraph (b) (1), (2), and (3) of this section are presumed to be avocational or recreational in character and require justification for their pursuit.

(4) To overcome the presumption that a course is avocational or recreational in character, the veteran or eligible person will be required to establish that the course will be of bona fide use in the pursuit of his or her present or contemplated business or occupation.

(e) *Correspondence courses.* Enrollment in such courses will not be approved for eligible children under chapter 35. See § 21.4256 as to chapter 34 and wives, husbands, widows, and widowers under chapter 35.

(f) *Courses on secondary level; chapter 35.* (1) A curriculum offered by a public or private school at the secondary school level leading to the completion of the eligible child's regular secondary school education, that is, leading to a high school diploma or its equivalent, may not be pursued as a program of education or as part of a course of education of an eligible child under chapter 35. An eligible wife, husband, widow, or widower may pursue secondary school courses only under the special assistance for the educationally disadvantaged program. See § 21.4237.

(2) Where the eligible person has ended his or her secondary school education, by completion or otherwise, after having passed the age of compulsory

school attendance, he or she may pursue a specialized vocational program of education in a school at the secondary level if such program leads to a bona fide vocational objective. Such a program may be pursued if it is deemed adequate to prepare graduates to enter directly into employment in the occupation or vocation which the eligible person expects to enter.

(g) *Vocational courses; chapters 34, 35, and 36.* Enrollment in any course with a vocational objective will not be approved unless the veteran or eligible person, or the institution offering such course, establishes that at least one-half of the persons completing such course over the preceding 2-year period, excluding the number of persons who completed such course with assistance under title 38, United States Code, while serving on active duty and the number of persons who are unavailable for employment, have been employed in the occupational category for which the course was designed to provide training. (38 U.S.C. 1673(a), 1723(a); Pub. L. 93-508, 88 Stat. 1578.)

(h) *Erroneous, deceptive, misleading practices.* Enrollment will not be approved in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation. The services and facilities of the Federal Trade Commission shall be utilized by the Veterans Administration, where appropriate, pursuant to an agreement to carry out investigations and to make determinations under this paragraph as provided by section 1796, title 38, United States Code.

44. In § 21.4264, the heading, paragraphs (a) (2), and (b) introduction, and (b) (3) are revised to read as follows:

§ 21.4264 Farm cooperative courses.

(a) *General.* . . .

(2) In computing the clock-hour requirements, the time involved in field

trips and individual and group instruction may be included when they are sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran, spouse or child is enrolled. (38 U.S.C. 1682, 1732; Pub. L. 93-508, 88 Stat. 1578.)

(b) *Application.* Any school desiring to enroll veterans, spouses or children in farm cooperative courses will submit to the appropriate State approving agency a written application for approval in accordance with § 21.4253 or 21.4254 as appropriate. In addition, the school must submit statements of fact showing at least the following:

(3) That the school itself verifies on a continuing basis that students are engaged in suitable agricultural employment which is relevant to the institutional agricultural course offered by the school and is in an area consistent with his or her institutional training program. Suitable agricultural employment must include employment on a farm or other agricultural establishment where the basic activity is the cultivation of the ground, such as the raising and harvesting of crops, including fruits, vegetables, pastures, or the feeding, breeding and managing of livestock, including poultry and other specialized farming. Employment in training establishments which are engaged primarily in the processing, distribution or sale of agricultural products, or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards, and florist shops, will not be considered suitable agricultural employment. (38 U.S.C. 1682, 1732; Pub. L. 93-508, 88 Stat. 1578.)

45. In § 21.4270, paragraph (a) is revised to add footnote 8 to read as follows:

§ 21.4270 Measurement of courses.

Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

Courses		Full time	3/4 time	1/2 time	Less than 1/4 more than 1/8 time	1/8 time or less
Kind of school	Kind of course					
(a) Trade or technical (includes college courses not leading to a standard degree). ¹	Shop practice an integral part of course.	30 clock hours attendance with not more than 2 1/2 h rest period allowance.	22 through 29 clock hours attendance with not more than 2 h rest period allowance.	15 through 21 clock hours attendance with not more than 1 1/2 h rest period allowance.	8 through 14 clock hours attendance with not more than 3/4 h rest period allowance.	1 through 7 clock hours attendance.
	Theory and class instruction predominates. ¹	25 clock hours net instruction.	18 through 24 clock hours net instruction.	12 through 17 clock hours net instruction.	7 through 11 clock hours net instruction.	1 through 6 clock hours net instruction.

¹ An educational institution offering courses not leading to a standard college degree may measure such courses on a quarter or semester-hour basis (with full time measured on the same basis as provided by par. (c) of this section, provided: (1) the academic portions of such courses must require outside preparation and be measured on a minimum of 50 min. net of instruction per week for each quarter or semester hour of credit, (2) the laboratory portions of such courses must be measured on a minimum of 2 h of attendance per week for each quarter or semester hour of credit, (3) the shop portions of such courses must be measured on a minimum of 3 h of at-

tendance per week for each quarter or semester hour of credit. In no event shall such courses be considered a full-time course when less than 22 h per week of attendance is required. Not more than 2 h rest period shall be allowed per week for courses in which shop practice is an integral part of full-time courses; 1 1/2 h for 3/4 time courses of 15 to 21 clock hours; 1 h for 1/2 time courses of 11 to 15 clock hours; or 3/4 h for less than 1/2 time courses of 6 to 10 clock hours; no rest period shall be allowed for courses of less than 6 clock hours of attendance.

46. A new subpart F is added to read as follows:

Subpart F—Education Loans

Sec.	
21.4500	Definitions.
21.4501	Eligibility.
21.4502	Applications.
21.4503	Determination of loan amount.
21.4504	Promissory note.
21.4505	Advertising.
21.4506	Right to administrative review.

AUTHORITY: The provisions of this Subpart F issued under 72 Stat. 1114, 88 Stat. 1589; 38 U.S.C. 210, 1686, 1737, Subchapter III, Chapter 36.

Subpart F—Education Loans

§ 21.4500 Definitions.

(a) *General.* These definitions shall be applicable for Subpart F of Part 21.

(b) *Education loan.* A loan made by the Veterans Administration to an eligible veteran or person pursuant to section 1798, title 38, United States Code.

(c) *Academic year.* The 9 month period usually from August or September to May or June, which includes generally two semesters or three quarters.

(d) *Loan period.* Loans are normally to be made for a quarter, semester, term, academic year or academic year plus a summer term. However, for courses which do not conform to the academic year, such as enrollments for students pursuing a course which does not lead to a standard college degree, a loan will be granted for a term of not more than 12 months provided the course requires at least 6 months at the full-time rate to complete.

(e) *Total amount of financial resources.* This term means the total of the following:

(1) The annual adjusted effective income of the veteran or other eligible person, less Federal income taxes paid or payable by the veteran or other eligible person with respect to such income, as described in paragraph (h) of this section.

(2) The amount of cash assets of the veteran or other eligible person, as described in § 21.4502(b) (2).

(3) The amount of financial assistance received by the veteran or other eligible person under the provisions of title IV of the Higher Education Act of 1965, as amended.

(4) Educational assistance received or receivable by the veteran or eligible person under section 1661 or subchapter II of chapter 35, title 38, United States Code, exclusive of an education loan.

(5) Financial assistance received by the veteran or other eligible person under any scholarship or grant other than the one specified in paragraph (e) (3) of this section.

(f) *Actual cost of attendance.* This term means the actual per student charges for tuition, fees, room and board (or expenses related to commuting a reasonable distance), books, and an allowance for such other expenses as are reasonably related to attendance at the institution at which the veteran or other eligible person is enrolled.

(g) *Loan fee.* This shall be a fee collected by discounting the amount of any loan granted to a veteran or eligible person by an appropriate amount. The fee shall be collected for each separate loan authorized. Effective January 1, 1975, the amount of the fee shall be 3 percent of the total loan amount.

(h) *Annual adjusted effective income.* This income shall be considered to be the net taxable income less the Federal income tax paid or payable of the veteran or other eligible person. It is not limited to such income which may be available for use by the veteran or other eligible person for education needs. The amount available for education needs is to be determined in accordance with § 21.4503.

§ 21.4501 Eligibility.

(a) *General.* An eligible veteran or other eligible person shall be entitled to an education loan if the program of education is pursued in a State and if such eligible veteran or other eligible person:

(1) At the time the loan is authorized, is in attendance at an educational institution on at least a half-time basis and

(i) Is enrolled in a course leading to a standard college degree, or

(ii) Is enrolled in a course, the completion of which requires 6 months or longer, leading to an identified and predetermined professional or vocational objective;

(2) Has sought and is unable to obtain a loan for the academic year or other loan period in the full amount needed, as determined by § 21.4503, under a student loan program insured pursuant to the provisions of part B of title IV of the Higher Education Act of 1965, as amended, or any successor authority;

(3) Has financial resources that may be reasonably expected to be expended for education needs which are insufficient to meet the expected actual cost of attendance;

(4) Executes a promissory note payable to the Veterans Administration, as provided by § 21.4504; and

(5) Is in receipt of educational assistance allowance under section 1661 or subchapter II of chapter 35, title 38, United States Code.

(b) *Exclusions.* No veteran or other eligible person shall be authorized an education loan who:

(1) Is pursuing a program of correspondence, flight, apprenticeship, or other on-job or predischARGE education program training, or

(2) Has defaulted on a previous education loan and there is a remaining unliquidated payment due the Veterans Administration.

§ 21.4502 Applications.

(a) *General.* An application for an education loan by an eligible veteran or other eligible person may not be submitted to the Veterans Administration prior to the date training is to commence. The application shall be made in the manner prescribed and upon the forms prescribed by the Veterans Administra-

tion. The application shall be certified by the school as to data required thereon from the school by the Veterans Administration.

(b) *Information.* The application shall provide the Veterans Administration with the following information and such other information as may be reasonable upon specific request:

(1) A statement of the amount of the net income of the veteran or other eligible person, less the Federal income tax paid or payable thereon, as reported or expected to be reported on the Federal income tax return of each such individual for the current tax year in which the application for the education loan is received by the Veterans Administration.

(2) The amount of all funds of the veteran or other eligible person on hand on the date of the application including cash on hand, money in a bank or savings and loan association account, and certificates of deposit.

(3) The full amount of the tuition for the course to be paid by the veteran or other eligible person during the period for which the loan is sought.

(4) The amount of reasonably anticipated expenses for room and board to be expended by the veteran or other eligible person during the period for which the loan is sought, including a reasonable amount for commuting normal distances to classes if the student does not reside on campus.

(5) The anticipated reasonable cost of books and supplies required for the courses to be taken during the period for which the loan is sought.

(6) A copy of two decisions with reference to applications made by the veteran or other eligible person for student loans insured pursuant to part B, title IV of the Higher Education Act of 1965, as amended, or any successor authority, unless fewer than two lenders within normal commuting distance are known by the school financial aid officer to be participating in such program.

§ 21.4503 Determination of loan amount.

(a) *General.* The amount of the education loan shall be computed by:

(1) Determining the total amount of financial resources of the veteran or other eligible person, as defined in § 21.4500(e), which may be reasonably expected to be expended for education needs in any academic year or other loan period.

(2) Subtracting the available resources determined in paragraph (a) (1) of this section from the actual cost of attendance, as defined in § 21.4500(f), to obtain the net amount by which costs exceed the resources available for education needs. If the available resources and the costs are equal, or if the resources exceed the costs, no loan will be authorized.

(b) *Amount.* A loan shall be authorized in the amount of the excess of cost over available resources as determined in paragraph (a) of this section subject to the following limitations:

(1) If the costs exceed the available resources by \$50 or less no loan shall be granted.

(2) The aggregate of the amounts any veteran or other eligible person may borrow for an education loan may not exceed the amount obtained by multiplying \$270 times the number of months of educational assistance allowance to which the veteran or other eligible person is entitled under section 1661 or subchapter II of chapter 35, title 38, United States Code, on the date that training commences during the period for which the loan is sought, but in no event more than \$600 in any one academic year.

(3) No single loan shall be authorized at one time for a period longer than the academic year plus the summer term, quarter or semester consisting of a course or courses aggregating at least 10 weeks in length in the case of a student pursuing a standard college degree or for a period longer than 12 months in the case of a student pursuing a course which does not lead to a standard college degree.

(4) If the loan period is for more than one term, quarter, or semester in the case of students pursuing a course leading to a standard college degree, or for more than 6 months in the case of students pursuing a course not leading to a standard college degree, the following maximum amounts shall be paid on the loan at the beginning of such term:

- (i) \$600 for an academic year.
 - (ii) \$800 for an academic year and following summer term.
 - (iii) \$400 for a quarter and following summer term.
 - (iv) \$500 for a semester and following summer term.
 - (v) \$300 for any semester.
 - (vi) \$200 for any term of 10 weeks or more leading to a standard college degree which is not part of the normal academic year or for a quarter.
 - (vii) \$400 for a course not leading to a standard college degree 6 through 8 months in length.
 - (viii) \$600 for a course not leading to a standard college degree 9 through 11 months in length.
 - (ix) \$800 for a course not leading to a standard college degree 12 months in length.
- (5) No amount authorized will be paid by the Veterans Administration until the veteran or other eligible person is certified as being enrolled and actually pursuing the course.
- (6) An eligible veteran or other eligible person may receive more than one loan covering separate loan periods subject to paragraph (b) (3) and (7) of this section.

(7) If the veteran or other eligible person has a material change in economic circumstances subsequent to the original application for a loan, he or she may reapply for an increase in an authorized loan or for a loan, if otherwise qualified, if no loan was originally granted. However, the Veterans Administration will not decrease or revoke a loan once granted, absent fraud in the application.

§ 21.4504 Promissory note.

(a) *General.* The agreement by the Veterans Administration to loan money pursuant to section 1798, title 38, United States Code, to any eligible veteran or eligible person shall be in the form of a promissory note which shall include:

- (1) The full amount of the loan.
- (2) Agreement to pay a fee not to exceed 3 percent for an insurance fund against defaults.

(3) A note or other written obligation providing for repayment of the principal amount, and interest on the loan in annual installments over a period beginning 9 months after the date on which the borrower first ceases to be at least a half-time student in the program for which he or she is to be enrolled and ending 10 years and 9 months after such date.

(4) A provision for acceleration of repayment of all or part of the loan, without penalty, at the option of the borrower.

(b) *Interest.* The promissory note shall advise the student that the loan shall bear interest, on the unpaid balance of the loan at a rate to be determined by the Veterans Administration and Department of the Treasury. The interest shall accrue from the beginning date for repayment of the loan as determined by paragraph (a) (3) of this section. The current average market yield on outstanding marketable obligations of the United States which have comparable terms of maturity shall be considered in determining this rate of interest. The rate shall be determined as of the date the agreement is executed and shall be a fixed amount.

(c) *Security.* The loan shall be made without security and without endorsement.

(d) *Default.* Whenever the Veterans Administration determines that a default, in whole or in part, has occurred on any such loan the eligible veteran or other eligible person shall be notified that the amount of the default shall be recovered from the eligible veteran or other eligible person concerned in the

same manner as any other debt due the United States.

(e) *Death or disability.* If the eligible veteran or eligible person dies or becomes permanently and totally disabled, even though he or she ceases to be permanently and totally disabled subsequent to the granting of the loan, the remaining liability of such person for an educational loan shall be discharged.

(f) *Fraud.* Material misrepresentation of fact by the eligible veteran or eligible person, including omissions of relevant information, shall render the loan agreement null and void. The deferred payment provisions of the agreement shall not apply in such a case and the full amount of any loan balance shall become due and payable immediately. The amount due shall be recovered from the eligible veteran or eligible person in the same manner as any other debt due the United States.

(g) *Signature.* A veteran or eligible person may sign both the loan application and the promissory note required and payment of the amounts authorized will be made to such person, notwithstanding his or her minority, unless the person has a legal guardian. In such cases the legal guardian must sign and will be paid the loan amounts.

§ 21.4505 Advertising.

(a) *General.* No educational institution or training establishment shall include a statement in advertisements or brochures intended to solicit students as to the availability of education loans from the Veterans Administration for eligible persons, except as provided in paragraph (b) of this section.

(b) *Form.* The statement which is permitted shall be as follows:

Certain eligible veterans and other eligible persons may qualify for a maximum educational loan of \$600 per academic year from the Veterans Administration depending upon need. Applications for such loans shall be made to the Veterans Administration on forms prescribed by it.

§ 21.4506 Right to administrative review.

Loan determinations, other than those determinations involving basic eligibility to educational assistance, will not be subject to appellate review. The claimant will, however, have the right to an administrative review of such determinations.

Approved: April 29, 1975.

[SEAL]

R. L. ROUDEBUSH,
Administrator.

[FR Doc. 75-11784 Filed 5-6-75; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-5/41]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on carriage of dangerous goods of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 10 a.m. on Wednesday, May 28, 1975, in Room 8334 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

Purpose of the meeting will be to:

Discuss the results of the 24th session of the Subcommittee on the Carriage of Dangerous Goods of the Intergovernmental Maritime Consultative Organization (IMCO);

Prepare for the first meeting of the IMCO joint ad hoc Working Group on Fire Safety Measures for Dangerous Goods carried in Packages, Containers and Portable Tanks, Ships carrying Containers and Ships carrying Dangerous Goods, scheduled to meet in London July 3 and 4, 1975;

Review documents already received from IMCO in preparation for the 25th session of the IMCO Subcommittee on the Carriage of Dangerous Goods, scheduled to meet in London September 1-5, 1975; and

Review draft U.S. position papers for the 25th session.

Requests for further information on the meeting should be directed to Captain R. G. Schwing, Chairman SOLAS Subcommittee working group on Carriage of Dangerous Goods, United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-2297.

Members of the public may submit written comments to the Chairman prior to May 21. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

RICHARD K. BANK,
Chairman, Shipping
Coordinating Committee.

APRIL 29, 1975.

[FR Doc.75-11934 Filed 5-6-75;8:45 am]

[Public Notice CM-5/42]

STUDY GROUP 7 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 7 of the U.S. National

Committee for the International Radio Consultative Committee (CCIR) will meet on May 30, 1975 at the Howard Johnson Motor Inn on Arkansas Avenue, Atlantic City, New Jersey. The meeting will begin at 2 p.m. (the room number will be available from the Inn's registration desk).

Study Group 7 deals with time-signal services by means of radio communications. The purpose of the meeting will be a review of the work programs of U.S. Study Group 7 in preparation for the international meeting of Study Group 7 in February 1976.

Members of the general public will be admitted up to the limits of the capacity of the meeting room. Members of the general public who plan to attend the meeting are requested to so inform Mr. Hugh Fosque, Chairman of U.S. Study Group 7, prior to April 30. Mr. Fosque can be contacted at NASA Headquarters, telephone number (202) 755-2434.

Dated: April 29, 1975.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

[FR Doc.75-11935 Filed 5-6-75;8:45 am]

[Public Notice CM-5/43]

U.S. ADVISORY COMMISSION ON INTER- NATIONAL EDUCATIONAL AND CUL- TURAL AFFAIRS

Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session in the United States Embassy, Reforma 5, Mexico City, Mexico on May 29, 30, and 31 at the times indicated in the following agenda:

THURSDAY, MAY 29, 1975

10-12—Briefing by U.S. Embassy officers on U.S.-Mexico cultural relations.
14:30-16—General discussion with Mexican officials of U.S.-Mexican exchanges.

FRIDAY, MAY 30, 1975

9:30-12:30—General discussion of the Commission's 14:30-16—activities for the next year.

SATURDAY, MAY 31, 1975

9:30-12—Continuation and conclusion of Friday's discussion.

For purposes of fulfilling building security requirements, anyone wishing to attend any of these sessions must advise the Staff Director by telephone no later than May 26, 1975. Telephone: (202) 632-2764. Members of the public

will be accommodated up to the seating capacity of the room.

Dated: April 28, 1975.

WILLIAM E. WELD, JR.,
Staff Director,
Commission Secretariat.

[FR Doc.75-11936 Filed 5-6-75;8:45 am]

Agency for International Development
[99.1.70]

MISSION DIRECTOR, USAID, YEMEN ARAB REPUBLIC

Redelegation of Authority Regarding Contract Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID, Yemen Arab Republic, the authority to sign or approve:

1. U.S. Government contracts and grants (other than grants to foreign governments or agencies thereof) and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed \$50,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director at his discretion to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer for AID programs, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority 99.1.66 (40 FR 17861), dated February 7, 1975, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed.

This redelegation of authority shall be effective immediately.

Dated: April 30, 1975.

HUGH L. DWELLEY,
Acting Director,
Office of Contract Management.

[FR Doc.75-11937 Filed 5-6-75; 8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN CONSUMER ELECTRONICS PRODUCTS FROM JAPAN

Preliminary Countervailing Duty Determination; Bounties and Grants

A "Notice of Preliminary Determination" was published in the FEDERAL REGISTER of February 5, 1975 (40 FR 5378, FR Doc. 75-3160) announcing that a preliminary determination had been made that benefits have been paid or bestowed on certain consumer electronic products from Japan under three programs which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

A question has been raised concerning Treasury's determination with respect to other alleged bounties or grants paid or bestowed on this merchandise. To clarify the matter, the notice of February 5 is hereby amended by inserting a new paragraph, following the fourth paragraph, as follows:

Any other programs alleged to result in the payment or bestowal of a bounty or grant within the meaning of section 303 of the Act have been terminated by the Japanese Government and/or are preliminarily determined not to result in the payment or bestowal of a bounty or grant.

Any relevant data, views, or arguments respecting this amendment should be submitted in writing to the Commissioner of Customs, 2100 K Street, NW., Washington, D.C. 20229, in time to be received by his office on or before May 30, 1975.

VERNON D. ACREE,
Commissioner of Customs.

Approved: May 2, 1975.

JAMES B. CLAWSON,
Acting Assistant Secretary
of the Treasury.

[FR Doc.75-11988 Filed 5-6-75; 8:45 am]

Office of the Secretary

PRESIDENT'S LABOR-MANAGEMENT COMMITTEE

Meeting

Notice is hereby given that the President's Labor-Management Committee will meet in the Secretary's Conference Room in the Treasury Department on May 21, 1975, at 10 a.m.

The purpose of the meeting is to continue a discussion, begun at the Committee's April 24, 1975, meeting, of long term Federal policy options to encourage capital formation, including tax policy options.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in section 552(b)(5) of Title 5 of the United States Code, and that the public interest requires such meeting be closed to public participation.

Dated: May 5, 1975.

[SEAL] WARREN F. BRECHT,
Assistant Secretary
(Administration).

[FR Doc.75-12081 Filed 5-6-75; 8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

FORT POLK MILITARY RESERVATION, LA.

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

(1) The lands described in Exhibit A below, which lie within the boundaries of the Kisatchie National Forest, Louisiana, are hereby transferred from the Secretary of the Army to the Secretary of Agriculture.

(2) The lands described in Exhibit B below, a part hereof, which lie within the boundaries of Fort Polk, Louisiana, are hereby transferred from the Secretary of Agriculture to the Secretary of the Army.

(3) Pursuant to section 2 of the aforesaid Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to other military lands comprising the Fort Polk Military Reservation, Louisiana. The military lands transferred to the Secretary of Agriculture by this order are hereafter subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

Effective date. This order will be effective on May 7, 1975.

Dated: December 4, 1974.

HOWARD H. CALLAWAY,
Secretary of the Army.

Dated: March 12, 1975.

EARL L. BUTZ,
Secretary of Agriculture.

NOTE: A map of the affected lands is filed as part of the original document.

EXHIBIT A—LANDS TRANSFERRED FROM THE SECRETARY OF THE ARMY TO THE SECRETARY OF AGRICULTURE

LOUISIANA MERIDIAN (PARISH OF VERNON, STATE
OF LOUISIANA)

T. 1 S., R. 5 W.,
Sec. 5, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 1 N., R. 5 W.,
Sec. 15, S $\frac{1}{2}$, NW $\frac{1}{4}$, Diagonal SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 16, E $\frac{1}{2}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 17;
Sec. 18, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 19, S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 20;
Sec. 21, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Diagonal
NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 28, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, Diagonal NW $\frac{1}{4}$
W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 29;
Sec. 32, W $\frac{1}{2}$, NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$,
E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, W 15 acres W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 1 N., R. 6 W.,
Sec. 16, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$
NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 10 acres in
the E $\frac{1}{2}$ NE $\frac{1}{4}$ bounded as follows: Beginning at NW corner of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, and thence run South on the subdivision line dividing NE $\frac{1}{4}$ of NE $\frac{1}{4}$ from NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said section, Township and Range a distance of 247 feet for a point of beginning; thence run south on said subdivision line 1000 feet more or less to a point on said subdivision line where a wire fence crosses said subdivision line; thence run in a Southeasterly direction 380 feet more or less along said fence to the corner of said fence, thence run East 273 feet more or less to the Southeast corner of said fence, thence run North along said fence 1000 feet more or less to the NE corner of said wire fence which corner being 546 feet more or less East of said subdivision line; thence run in a Northwesterly direction along said wire fence to the point of beginning; said land being situated in the E $\frac{1}{2}$ of NE $\frac{1}{4}$;

Sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 1 N., R. 7 W.,
Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 15, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 16, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$
SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 19, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 20, a parcel of land described as follows: Beginning at Northwest corner of NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said section, township and range, thence South 12 degrees East 91 $\frac{1}{2}$ yards to point of beginning, thence North 30 degrees East 413 yards, thence North 60 degrees West 293 yards, thence South 30 degrees West 413 yards, thence South 60 degrees East 293 yards to point of beginning;

Sec. 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

**Office of the Secretary
NATIONAL WAR COLLEGE CONSULTANTS
BOARD
Annual Meeting**

The annual meeting of the Board of Consultants of the National War College will be held in the Classified Library of the College located at Fort McNair, Washington, D.C. 20319, on 2 and 3 June 1975. Meetings are scheduled from 0900 to 1130 and 1330 to 1600 on both days.

The purpose of the annual meeting is for the Board of Consultants to review the entire range of College operations and, where appropriate, to provide advice and recommendations to the College Commandant.

The meetings will be open to the public to the extent that space limitations of the meeting place permit. Because of these limitations, interested parties are requested to reserve space by calling the College Secretariat at 202-693-8318. Reservations will be on a first-come basis.

**MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptroller).**

MAY 2, 1975.

[FR Doc.75-11941 Filed 5-6-75;8:45 am]

DEPARTMENT OF JUSTICE

**Office of the Attorney General
UNITED STATES V. IMPERIAL WEST
CHEMICAL CO.**

Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029 notice is hereby given that on April 22, 1975, a proposed consent decree in *United States v. Imperial West Chemical Company* was lodged with the United States District Court for the Northern District of California. The proposed decree would require the defendant to repair a defect in the wall of an alum pond at its Antioch, California, plant, and to implement related corrective measures. It also would permit agents of the Environmental Protection Agency to inspect the defendant's facilities to monitor compliance with the requirements of the decree. Finally, it would permanently enjoin the discharge of pollutants from the defendant's plant without the requisite discharge permit under section 402 of the Federal Water Pollution Control Act, 33 U.S.C. 1342.

The Department of Justice will receive written comments relating to the proposed consent decree until June 10, 1975. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States v. Imperial West Chemical Company*, D.J. Ref. 90-5-1-2-16.

The proposed consent decree may be examined at the Office of the United States Attorney, 450 Golden Gate Avenue, San Francisco, California, and at

the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Main Building, Ninth Street and Pennsylvania Avenue, NW, Washington, D.C. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section. In requesting a copy, please enclose a check in the amount of \$.60 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

**WALLACE H. JOHNSON,
Assistant Attorney General,
Land and Natural Resources
Division.**

[FR Doc.75-12215 Filed 5-6-75;10:29 am]

Drug Enforcement Administration

MALLINCKRODT, INC., ET AL.

**Registration of Manufacture of
Controlled Substances**

By notice dated March 4, 1975, and published in the FEDERAL REGISTER on March 11, 1975; (40 FR 11364) the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic class of controlled substances listed below:

Mallinckrodt Inc., Mallinckrodt and Second Streets, St. Louis, Missouri 63147 (January 13, 1975).

Drug:	Schedule
Cocaine	II
Dihydrocodeine	II
Oxycodone	II
Diphenoxylate	II
Hydrocodone	II
Pethidine-Inter. B.	II
Methadone	II
Morphine	II
Thebaine	II
Opium extracts	II
Opium fluid extracts	II
Opium tinctures	II
Opium powders	II
Opium granulated	II

Merck & Co., Inc., Merck Chemical Division, Lincoln Ave., Rahway, New Jersey 07065 (January 8, 1975).

Drug:	Schedule
Antleridine	II
Apomorphine	II
Cocaine	II
Codeine	II
Ethylmorphine	II
Hydrocodone	II
Morphine	II
Thebaine	II

Gane's Chemical Works, Inc., Lessee of Siegfried Chemical, Inc., Industrial Park Road, Pennsville, New Jersey 08070 (January 14, 1975).

Drug:	Schedule
Methamphetamine	II
Amobarbital	II
Pentobarbital	II
Secobarbital	II
Methaqualone	II

No comments or objections having been received, and, pursuant to section 303 of

Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and part S $\frac{1}{2}$ SE $\frac{1}{4}$, described as follows: Beginning at a point 10 rods South of Northwest corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$, thence running West 40 rods, thence South 40 rods, thence East 40 rods, thence North 40 rods to point of beginning, also 4.00 acres lying due east of above described 10.00 acres, and extending along the entire eastern boundary;

Sec. 30, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 31, NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 32, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 33, SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 1 N., R. 8 W.,

Sec. 13, NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 15, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 22, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$;

Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, 10.15 acres in the SW $\frac{1}{4}$ (described as SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$), and part of NW $\frac{1}{4}$ NW $\frac{1}{4}$, being a rectangular parcel located in the Southwest corner of NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said section, that is 140 yards east and west and 70 yards north and south;

Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 27, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 35, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The described areas aggregate approximately 8,623.95 acres.

EXHIBIT B—LANDS TRANSFERRED FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE ARMY

LOUISIANA MERIDIAN (PARISH OF VERNON, STATE OF LOUISIANA)

T. 1 N., R. 8 W.,

Sec. 3, W $\frac{1}{2}$, SE $\frac{1}{4}$;

Sec. 4, S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$;

Sec. 5, SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 8, E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 9;

Sec. 10, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 11, W $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, LESS AND EXCEPT 3.00 acres deeded to Zion Baptist Church and being more particularly described in a deed from Marrs McLean, et ux, to the United States of America, dated 24 November 1934, recorded in Book 106, page 485, Vernon Parish as follows: Begin at a point 451.44 feet East of the Northwest Corner of SW $\frac{1}{4}$ SE $\frac{1}{4}$, and run South 625.68 feet; thence East 208.56 feet; thence North 625.68 feet; thence West 208.56 feet to the point of beginning;

Sec. 16;

Sec. 17;

Sec. 18, S $\frac{1}{2}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 19, E $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 20, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 21;

Sec. 28, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 29, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;

Sec. 32, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 33, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

(Containing in total aggregate 8597.54 acres, more or less.)

[FR Doc.75-11947 Filed 5-6-75;8:45 am]

the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1301.43, the above firms are granted registration as bulk manufacturers of the basic class of controlled substances listed for each firm.

Dated: April 28, 1975.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.75-11958 Filed 5-6-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 50630]

WYOMING

Application

APRIL 29, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Mountain Fuel Supply Company has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 103 W.,
Sec. 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The pipeline will connect the K. D. Luff Well 1-9 in sec. 9 with an existing pipeline in sec. 6, all in T. 22 N., R. 103 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, WY 82901.

PHILIP C. HAMILTON,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.75-11980 Filed 5-6-75;8:45 am]

[Wyoming 50631]

WYOMING

Application

APRIL 29, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Mountain Fuel Supply Company has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 113 W.,
Sec. 12, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The pipeline will connect the Amoco Verne Well No. 1 in sec. 11, T. 18 N., R. 113 W. with an existing pipeline in sec. 19, T. 18 N., R. 112 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions. Interested persons desiring to express

their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, WY 82901.

PHILIP C. HAMILTON,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.75-11979 Filed 5-6-75;8:45 am]

Office of the Secretary

COMMITTEE ON ENERGY CONSERVATION NATIONAL PETROLEUM COUNCIL; SUB- COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given of the following meeting:

The Subcommittee of the Committee on Energy Conservation of the National Petroleum Council will meet on Thursday and Friday, May 22 and 23, 1975, in the Mayflower Hotel, Senate Room, 1127 Connecticut Avenue, NW., Washington, D.C., commencing at 9:00 a.m. both days.

The agenda includes the following items:

1. Review of the Phase II draft report.
2. Consideration of Consumer Task Group comments and input.
3. Review of schedule for completion of study.
4. Discuss any other matters pertinent to the overall assignment of the Subcommittee.

The purpose of the National Petroleum Council is to provide advice, information and recommendations to the Secretary of the Interior, upon request, upon any matter relating to petroleum or the petroleum industry. The Conservation Committee is providing the mechanism for conducting the analysis which the Council will use in assisting it in giving advice to the Secretary of the Interior. The Subcommittee is working on the integration of particular parts of the analysis regarding energy conservation and the impact of measures on energy demand and supply. The following individuals are invited to attend this meeting; they have participated in the analysis to date:

R. Gerald Bennett
Continental Oil Company
Edgar N. Brightbill
E. I. DuPont de Nemours & Company, Inc.
Thomas H. Burbank
Edison Electric Institute
Charles H. Burge
Murphy Oil Corporation
David A. Crane
Rice Center for Community Design and Research
W. B. Finger
Exxon Company U.S.A.
Harvey L. Franzel
Shell Oil Company
Patrick Greathouse
United Auto Workers
E. R. Heydinger
Marathon Oil Company
Charles M. Huggins
General Electric Company

Alvin Kaufman
New York State Public Service Commission
John H. Lichtblau
Petroleum Industry Research Foundation, Inc.

Robert D. Lynch
National Oil Fuel Institute
R. C. McCay
Texaco, Inc.

Howard A. McKinley
Continental Oil Company

Richard J. Murdy
CNG Producing Company

J. W. Schmiedeskamp
University of Michigan

Paul Swatek
Sierra Club

Dudley J. Taw
East Ohio Gas Company

Karl C. tenBrink
Texaco, Inc.

Elizabeth Wallace
Consumer Affairs Specialist

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information with respect to this meeting may be obtained from Ben Tafuya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C., telephone number 343-6226.

Dated: May 5, 1975.

JACK W. CARLSON,
Assistant Secretary
of the Interior.

[FR Doc.75-12048 Filed 5-5-75;12:09 pm]

[INT FES 75-45]

TURNBULL NATIONAL WILDLIFE REFUGE

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental statement for the Proposed Operation, Maintenance and Development of the Turnbull National Wildlife Refuge, Spokane County, Washington.

The proposal recommends that approximately 2,795 acres be added to the Turnbull National Wildlife Refuge, and that facilities be developed on the refuge—including wildlife impoundments, feeding areas, auto tours, foot trails, a picnic area, a laboratory building, and an entrance road.

Copies of the final statement are available for inspection at the following locations:

Regional Director
U.S. Fish and Wildlife Service
1500 N.E. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Refuge Manager
Turnbull National Wildlife Refuge
Route 3
Box 107
Cheney, Washington 99004
U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th & C Streets, NW
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: May 1, 1975.

STANLEY D. DOREMUS,
Deputy Assistant
Secretary of the Interior.

[FR Doc. 75-11981 Filed 5-6-75; 8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[Amdt. No. 58; FSP No. 1975-1.2]

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: 48 STATES AND DISTRICT OF COLUMBIA

Food Stamp Program

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics.

Prior to the amendment to the Act, requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the economy food plan in the preceding February and the January adjustment based on the cost of the economy food plan the preceding August.

Notice FSP No. 1975-1.1 which is issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II, Code of Federal Regulations, is superseded, effective July 1, 1975 by this Notice FSP No. 1975-1.2.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotments up to the next higher whole dollar amount and shall not change the purchase requirements for such allotments.

In line with the congressional intent contained in House Report 94-2, the purchase requirements to become effective on July 1, 1975, have been increased for households at the very upper monthly net income brackets.

In view of the need for placing this notice into effect on July 1, 1975, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rule making with respect to this notice. Notice FSP No. 1975-1.2 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: 48 STATES AND DISTRICT OF COLUMBIA

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—48 STATES AND DISTRICT OF COLUMBIA

Monthly net income	For a household of—							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	\$48	\$90	\$128	\$162	\$192	\$222	\$250	\$278
	And the monthly purchase requirement is—							
\$0 to \$19.99	0	0	0	0	0	0	0	0
\$20 to \$29.99	1	1	0	0	0	0	0	0
\$30 to \$39.99	4	4	4	4	5	5	5	5
\$40 to \$49.99	6	7	7	7	8	8	8	8
\$50 to \$59.99	8	10	10	10	11	11	12	12
\$60 to \$69.99	10	12	13	13	14	14	15	16
\$70 to \$79.99	12	15	16	16	17	17	18	19
\$80 to \$89.99	14	18	19	19	20	21	21	22
\$90 to \$99.99	16	21	21	22	23	24	25	26
\$100 to \$109.99	18	23	24	25	26	27	28	29
\$110 to \$119.99	21	26	27	28	29	31	32	33
\$120 to \$129.99	24	29	30	31	33	34	35	36
\$130 to \$139.99	27	32	33	34	36	37	38	39
\$140 to \$149.99	30	35	36	37	39	40	41	42
\$150 to \$159.99	33	38	40	41	42	43	44	45
\$160 to \$169.99	36	41	43	44	45	46	47	48
\$170 to \$179.99	39	44	46	47	48	49	50	51
\$180 to \$189.99	42	47	49	50	51	52	53	54
\$190 to \$199.99	45	50	52	53	54	55	56	57
\$200 to \$209.99	48	53	55	56	57	58	59	60
\$210 to \$219.99	51	56	58	59	60	61	62	63
\$220 to \$229.99	54	59	61	62	63	64	65	66
\$230 to \$239.99	57	62	64	65	66	67	68	69
\$240 to \$249.99	60	65	67	68	69	70	71	72
\$250 to \$259.99	63	68	70	71	72	73	74	75
\$260 to \$269.99	66	71	73	74	75	76	77	78
\$270 to \$279.99	69	74	76	77	78	79	80	81
\$280 to \$289.99	72	77	79	80	81	82	83	84
\$290 to \$299.99	75	80	82	83	84	85	86	87
\$300 to \$309.99	78	83	85	86	87	88	89	90
\$310 to \$319.99	81	86	88	89	90	91	92	93
\$320 to \$329.99	84	89	91	92	93	94	95	96
\$330 to \$339.99	87	92	94	95	96	97	98	99
\$340 to \$349.99	90	95	97	98	99	100	101	102
\$350 to \$359.99	93	98	100	101	102	103	104	105
\$360 to \$369.99	96	101	103	104	105	106	107	108
\$370 to \$379.99	99	104	106	107	108	109	110	111
\$380 to \$389.99	102	107	109	110	111	112	113	114
\$390 to \$399.99	105	110	112	113	114	115	116	117
\$400 to \$409.99	108	113	115	116	117	118	119	120
\$410 to \$419.99	111	116	118	119	120	121	122	123
\$420 to \$429.99	114	119	121	122	123	124	125	126
\$430 to \$439.99	117	122	124	125	126	127	128	129
\$440 to \$449.99	120	125	127	128	129	130	131	132
\$450 to \$459.99	123	128	130	131	132	133	134	135
\$460 to \$469.99	126	131	133	134	135	136	137	138
\$470 to \$479.99	129	134	136	137	138	139	140	141
\$480 to \$489.99	132	137	139	140	141	142	143	144
\$490 to \$499.99	135	140	142	143	144	145	146	147
\$500 to \$509.99	138	143	145	146	147	148	149	150
\$510 to \$519.99	141	146	148	149	150	151	152	153
\$520 to \$529.99	144	149	151	152	153	154	155	156
\$530 to \$539.99	147	152	154	155	156	157	158	159
\$540 to \$549.99	150	155	157	158	159	160	161	162
\$550 to \$559.99	153	158	160	161	162	163	164	165
\$560 to \$569.99	156	161	163	164	165	166	167	168
\$570 to \$579.99	159	164	166	167	168	169	170	171
\$580 to \$589.99	162	167	169	170	171	172	173	174
\$590 to \$599.99	165	170	172	173	174	175	176	177
\$600 to \$609.99	168	173	175	176	177	178	179	180
\$610 to \$619.99	171	176	178	179	180	181	182	183
\$620 to \$629.99	174	179	181	182	183	184	185	186
\$630 to \$639.99	177	182	184	185	186	187	188	189
\$640 to \$649.99	180	185	187	188	189	190	191	192
\$650 to \$659.99	183	188	190	191	192	193	194	195
\$660 to \$669.99	186	191	193	194	195	196	197	198
\$670 to \$679.99	189	194	196	197	198	199	200	201
\$680 to \$689.99	192	197	199	200	201	202	203	204
\$690 to \$699.99	195	200	202	203	204	205	206	207
\$700 to \$709.99	198	203	205	206	207	208	209	210
\$710 to \$719.99	201	206	208	209	210	211	212	213
\$720 to \$729.99	204	209	211	212	213	214	215	216
\$730 to \$739.99	207	212	214	215	216	217	218	219
\$740 to \$749.99	210	215	217	218	219	220	221	222
\$750 to \$759.99	213	218	220	221	222	223	224	225
\$760 to \$769.99	216	221	223	224	225	226	227	228
\$770 to \$779.99	219	224	226	227	228	229	230	231
\$780 to \$789.99	222	227	229	230	231	232	233	234
\$790 to \$799.99	225	230	232	233	234	235	236	237
\$800 to \$809.99	228	233	235	236	237	238	239	240
\$810 to \$819.99	231	236	238	239	240	241	242	243
\$820 to \$829.99	234	239	241	242	243	244	245	246
\$830 to \$839.99	237	242	244	245	246	247	248	249
\$840 to \$849.99	240	245	247	248	249	250	251	252
\$850 to \$859.99	243	248	250	251	252	253	254	255
\$860 to \$869.99	246	251	253	254	255	256	257	258
\$870 to \$879.99	249	254	256	257	258	259	260	261
\$880 to \$889.99	252	257	259	260	261	262	263	264
\$890 to \$899.99	255	260	262	263	264	265	266	267
\$900 to \$909.99	258	263	265	266	267	268	269	270

For issuance to households of more than eight persons use the following formula:

A. Value of the Total Allotment. For each person in excess of eight, add \$22 to the monthly coupon allotment for an eight-person household.

those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in any State other than Alaska or Hawaii or in the District of Columbia, shall be:

Maximum allowable monthly income standards—48 States and District of Columbia

Household size:	
One	\$215
Two	300
Three	427
Four	540
Five	640
Six	740
Seven	833
Eight	926
Each additional member	+73

* Poverty guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Public Law 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the 48 States and the District of Columbia are as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—48 STATES AND DISTRICT OF COLUMBIA

For a household of—							
1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
The monthly coupon allotment is—							
\$48	\$90	\$128	\$162	\$192	\$222	\$250	\$278
And the monthly purchase requirement is—							
0	0	0	0	0	0	0	0
1	1	0	0	0	0	0	0
4	4	4	4	5	5	5	5
6	7	7	7	8	8	8	8
8	10	10	10	11	11	12	12
10	12	13	13	14	14	15	16
12	15	16	16	17	17	18	19
14	18	19	19	20	21	21	22
16	21	21	22	23	24	25	26
18	23	24	25	26	27	28	29
21	26	27	28	29	31	32	33
24	29	30	31	33	34	35	36
27	32	33	34	36	37	38	39
30	35	36	37	39	40	41	42
33	38	40	41	42	43	44	45
36	41	43	44	45	46	47	48
39	44	46	47	48	49	50	51
42	47	49	50	51	52	53	54
45	50	52	53	54	55	56	57
48	53	55	56	57	58	59	60
51	56	58	59	60	61	62	63
54	59	61	62	63	64	65	66
57	62	64	65	66	67	68	69
60	65	67	68	69	70	71	72
63	68	70	71	72	73	74	75
66	71	73	74	75	76	77	78
69	74	76	77	78	79	80	8

For each \$30 worth of monthly income (or portion thereof) over \$809.99, add \$9 to the monthly purchase requirement shown for an eight-person household with an income of \$809.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add \$18 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on July 1, 1975.

Dated: May 2, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-11975 Filed 5-6-75;8:45 am]

Forest Service

SIX RIVERS NATIONAL FOREST, EIGHTMILE-BLUE CREEK UNITS

Curtailed Review Period for Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, is preparing a final environmental statement for the Land Use Plans, Eightmile-Blue Creek Units, Six Rivers National Forest, California, USDA-FS-R5-FES(Adm)-75-5.

The draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on November 12, 1974. A supplement to the draft environmental statement was transmitted to CEQ on March 7, 1975. A 60-day review period for receipt of comments on the draft environmental statement and supplement, ending May 7, 1975, was established.

The final environmental statement will respond to comments concerning a proposed land use management plan for 94,000 acres of National Forest lands in Del Norte and Humboldt Counties, California (59,800 acres of which have been inventoried as "roadless"), and concerning effects to the natural and socio-economic environment of completion, noncompletion, or modification of the Dillon-Flint and Chimney Rock Sections of the Gasquet-Orleans Road.

The Forest Service anticipates that this final environmental statement for the Land Use Plans, Eightmile-Blue Creek Units, Six Rivers National Forest, will be filed with CEQ and made available to commenting entities and the public on May 19, 1975. Because of overriding considerations of expense to the Government requiring a decision at the earliest possible time concerning construction, modification, or nonconstruction of the Dillon-Flint Section of the Gasquet-Orleans Road, a curtailed review period of ten days will be established for the final environmental statement. This step has been taken in consultation with the Council on Environmental Quality.

Comments concerning the final environmental statement and the proposed actions should be sent to Forest Supervisor George A. Roether, Six Rivers Na-

tional Forest, 710 "E" Street, Eureka, California 95501, by May 29, 1975. A decision on the proposed action is expected to be made and announced on June 2, 1975.

DOUGLAS LEISZ,
Regional Forester.

APRIL 29, 1975.

[FR Doc.75-11939 Filed 5-6-75;8:45 am]

Office of the Secretary

FORT POLK MILITARY RESERVATION, LA.

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

CROSS REFERENCE: For a document transferring jurisdiction over certain lands in the vicinity of the Fort Polk Military Reservation between the Department of the Army and the Department of Agriculture, see FR Doc. 75-11947, which appears in Department of Defense notices in this issue of the FEDERAL REGISTER.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[File No. 23-930]

GRABNER G.M.B.H.

Related Party Determination

In the matter of Grabner G.m.b.H., Prinz Eugen Strasse 44/9, 1040 Vienna, Austria, Respondent.

An Order effective March 9, 1964 (29 FR 3207), was entered by the then Office of Export Control (now, the Office of Export Administration), Department of Commerce, against Josef Cremer, trading as J. Cremer Export-Import, Vienna, Austria, indefinitely denying all privileges of participating, in any manner or capacity, in the exportation of U.S.-origin commodities or technical data. This followed a temporary denial order of December 10, 1963 (28 FR 13551).

Section 388.1(b) of the Export Administration Regulations (hereinafter, the regulations) provides, in pertinent part, that:

Any order denying export privileges * * * may be made applicable not only to persons named therein but also, to the extent necessary to prevent evasion, to other persons with whom such persons may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services.

By a letter of January 14, 1975, Grabner G.m.b.H. was notified by the Hearing Commissioner of the issuance of the above-mentioned indefinite denial order of March 9, 1964. That letter, with a copy of the March 1964, order attached, drew attention to Part III of the order setting forth, in substance, the provisions of § 388.1(b). Based upon information received by the Bureau of East-West Trade to the effect that the denied party, Josef Cremer, is a managing principal of that firm, Grabner G.m.b.H. was informed in the above-referenced letter that, unless

it showed within 20 days of the date of that letter, that it had never been or had wholly ceased to be, related to Cremer, a related party determination would be issued against it and it would become subject to the above-cited indefinite denial order.

No reply having been received, it has been determined, based upon the cited information, that Grabner G.m.b.H. is a related party to Josef Cremer and is within the terms of § 388.1(b) of the regulations and Part III of the order of March 9, 1964, issued against Cremer, and is, therefore, subject to all the prohibitions and restrictions of that order.

The related party, Grabner G.m.b.H., is notified that if it chooses to contend that the determination which is the subject of this notice is not justified, it may make application to have the ruling reconsidered or terminated. Such application must be made to the Hearing Commissioner, Bureau of East-West Trade, Department of Commerce, Washington, D.C. 20230. This notice is effective immediately.

Dated: April 25, 1975.

RAUER H. MEYER,
Director, Office of
Export Administration.

[FR Doc.75-11997 Filed 5-6-75;8:45 am]

[File No. 23(71)-15]

SEUROLEC, S.A. AND ALBERT ROLLAND

Order Denying Export Privileges

In the matter of Seurolec, S.A. (Société Européenne d'Electronique, S.A.) and Rolland, Albert, 39-41 Rue de l'Est, 92 Boulogne-sur-Seine, France, Respondents.

By an order effective August 19, 1971 (36 FR 16700), the Director of the then Office of Export Control (now, Office of Export Administration) denied the U.S. export privileges of the respondents for 90 days. An order extending the temporary denial until further notice was issued on November 16, 1971 (36 FR 21837).

On December 29, 1971, a motion to vacate the temporary denial order was filed with the then Compliance Commissioner (now, Hearing Commissioner). The motion was denied on January 20 of the following year.

Pursuant to § 388.3 of the then Export Control Regulations (now, Export Administration Regulations, hereinafter, the report regulations), the Compliance Division of the Office of Export Control, with the approval of the Office of General Counsel, issued a charging letter, dated February 4, 1972, subsequently amended by a letter of August 24, 1973, against the above-named respondents. A formal answer of June 27, 1972, to the original charging letter was submitted to the Compliance Commissioner, in accordance with § 388.5 of the export regulations. An answer, dated September 11, 1973, was filed to the amended charging letter.

Although the answer of June 27, 1972, contained a number of denials of wrong-

doing, the later answer stated, without further significant elaboration, that the charges of the amended letter "correspond, more or less, to what really happened." Since the amended letter contained all of the charges of the original letter, in addition to another charge, and in view of § 388.5 of the export regulations which provides that "a failure to deny or controvert any particular allegation shall be deemed an admission thereof," the charges of the amended charging letter are deemed admitted in toto.

On June 11, 1974, a hearing was held in the office of the Hearing Commissioner to consider the Government's request for a denial order in this case. Mr. Rolland had been duly notified, but declined to attend. Mr. Whitsett and Mr. Clements, representing the Government, reviewed the history of the compliance proceeding and the alleged violations which were asserted in support of their request. All of the matters referred to are contained in the Hearing Commissioner's file.

The Director, Compliance Division, Office of Export Administration, has applied to the Hearing Commissioner for an order against the above-named respondents denying all United States export privileges for the duration of export controls. The Hearing Commissioner has reviewed the application and the evidence presented in support thereof and has submitted his report, together with a recommendation that the application be granted. On the basis of the Hearing Commissioner's submission and the supporting evidence, I conclude that Seurolec and Albert Rolland, the latter acting individually and for Seurolec:

A. Violated § 387.4 of the export regulations:

1. By having serviced the export from the United States of 3 oscilloscopes, 2 spectrum analyzers and 2 plug-in units, all U.S.-origin commodities, knowing that a violation of the export regulations was intended and was about to occur by unauthorized reexportation of that equipment;

2. By having disposed of, by reexportation from France, the commodities described in A.1. above, as well as a U.S.-origin crystal growing furnace, without authorization from the Office of Export Control, with knowledge that violations of the export regulations had occurred with respect to transactions involving those items;

3. By having ordered, received, and knowingly exported or caused to be exported, from the United States to France, one additional oscilloscope, with plug-ins, and three bonders, without having obtained the validated export licenses required by § 372.1(b) of the export regulations;

4. By having ordered four endless loop electrodes, one automatic electronic system, and one crystal growing furnace, referred to at A.2. above, all of U.S. origin, without specific authorization from the Department of Commerce in violation of, and with the intention to further violate the temporary denial

order then in force against the respondents;

5. By having communicated a request to a U.S. firm to export to the respondents a previously ordered U.S.-origin, electronic unit, without authorization from the Department of Commerce, in violation of, and with the intention to, further violate the temporary denial order in force against them.

B. Violated § 387.5 of the export regulations:

1. By having made, for the purpose of effecting an export from the United States, false and misleading representations to the Office of Export Control in a FC-842 Single Transaction Statement;

2. By having made, for the same purpose, a false and misleading statement to the U.S. Embassy, Paris.

C. Violated § 387.6 of the export regulations:

1. By having knowingly reexported or caused to be reexported from France, without authorization from the Office of Export Control, the group of three oscilloscopes referred to at A.1. above, two spectrum analyzers referred to at A.1. above, and one crystal growing furnace referred to at A.2. above, all of U.S. origin, in a manner contrary to the terms of the Single Transaction Statement and the representations made to the American Embassy, Paris, cited at B. above;

2. By having knowingly exported, or caused to be exported, the one individual oscilloscope, with plug-ins, and three bonders, all referred to at A.3. above and all of U.S. origin, without having obtained the validated export license required by § 372.1(b) of the export regulations.

It is therefore,

ORDERED

I. All outstanding validated export licenses concerned with or affecting any transaction in which the respondents have any interest, direct or indirect, are hereby revoked and are ordered to be returned forthwith to the Office of Export Administration.

II. The respondents, their successors or assigns, partners, representatives, agents and employees are hereby denied for the duration of export controls, the privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Administration Regulations. Without limitation of the generality of such denial of export privileges, participation prohibited in any such transaction either in the United States or abroad shall include participation directly or indirectly, in any manner or capacity:

A. As a party or as a representative of a party to any validated export license application;

B. In the preparation or filing of any export license application or reexport authorization, or any document to be submitted therewith;

C. In the obtaining or using of any validated or general export license or other export control document;

D. In the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States;

E. In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also, to their agents and employees and to any successor, and to any persons, firm, corporation, partnership, or other business organization with which the respondents now or hereafter may be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to, and specific authorization from, the Bureau of East-West Trade, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of, or in any association with, the respondents or any related party, or whereby the respondents or related party may obtain any benefit therefrom, or have any interest or participation therein, directly or indirectly:

A. Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document, relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported, or to be exported, from the United States, by, to, or for the respondents or related party;

B. Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any transaction which may involve the respondents or related party in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States or which is otherwise subject to the Export Administration Regulations.

V. A copy of this order shall be served on the respondents.

VI. This order shall become effective on April 29, 1975.

Dated: April 15, 1975.

RAUER H. MEYER,
Director.

Office of Export Administration.

[FR Doc. 75-11942 Filed 5-6-75; 8:45 am]

Maritime Administration

[Docket No. S-450]

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd. has applied for

amendment of the service descriptions of its subsidized Round-the-World (Westbound) and Atlantic/Straits RW feeder services so as to add calls at ports on the Persian Gulf and Gulf of Oman.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to Section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by the close of business on May 19, 1975, notify the Secretary, Maritime Subsidy Board in writing in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

Any service authorized pursuant to the application noticed herein will not be deemed existing service within the meaning of section 605(c) for purposes of Docket No. S-417.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

By Order of the Maritime Administration.

Dated: May 2, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-11993 Filed 5-6-75;8:45 am]

[Docket No. S-449]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc., has applied for operating-differential subsidy to aid in the operation of the SS SANTA INES, a MA Design C3-S-A3 type vessel, in its subsidized Line C, Trade Route No. 4, cargo vessel service under a renewed bareboat charter for one year. The applicant, under Operating-Differential Subsidy Agreement, Contract No. FMB-49, provides service on a required basis on Trade Route No. 4, between United States North Atlantic ports and the Venezuelan-Netherlands West Indies-North Coast of Colombia range; and on a privilege basis between

United States Atlantic ports and Jamaica, Haiti, Dominican Republic, other West Indies ports and Caribbean ports in Central America. The applicant proposes to continue to operate the vessel principally between the United States East Coast and ports in Venezuela. No change is proposed by Prudential Lines, Inc., in its operating-differential subsidy contract Trade Route No. 4 sailing requirements from the present minimum of 44 and maximum of 52 per annum for the duration of the one-year charter.

Any person having an interest in the granting of such application and who would contest a finding by the Maritime Subsidy Board that the service now provided by vessels of United States registry on Trade Route No. 4 is inadequate must, on or before May 19, 1975, notify the Secretary, Maritime Subsidy Board, in writing, of his interest and position and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board (46 CFR Part 201).

Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, (46 U.S.C. 1175) and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated therein.

If no request for hearing and petition to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: May 2, 1975.

JAMES S. DAWSON, Jr.,
Secretary

[FR Doc.75-11992 Filed 5-6-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

COLD, COUGH, ALLERGY, BRONCHODILATOR AND ANTI-ASTHMATIC DRUG REVIEW PANEL

Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Panel on Review of Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drugs.	May 15, 16, and 17, 3:30 p.m., Conference Room J, Parklawn Bldg., 5900 Fishers Lane, Rockville, Md.	Closed May 15, 9 a.m. to 3:30 p.m., open May 15, after 3:30 p.m., closed May 16 and 17, Thomas D. DeCillis, (HFD-510), 5900 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing cold, cough, allergy, bronchodilator, and antiasthmatic ingredients.

Agenda. Closed session: Continuing review of over-the-counter drug products containing cold, cough, allergy, bronchodilator, and antiasthmatic drugs. Open session: Comments and presentations by interested persons.

NOTE: Less than 15 days notice is being given for this meeting. Due to a handling error, this meeting was not included with other May meetings that were published in the FEDERAL REGISTER of April 16, 1975 (40 FR 17051).

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus

necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting.

Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: May 1, 1975, at 9:10 a.m.

SHERWIN GARDNER,
Deputy Commissioner of
Food and Drugs.

[FR Doc.75-11775 Filed 5-6-75;8:45 am]

UNIFORM EFFECTIVE DATE FOR NEW FOOD LABELING REGULATIONS

Notice to Manufacturers, Packers, and Distributors Concerning Temporary Extension for Certain Dairy Products

The Commissioner of Food and Drugs is extending the uniform effective date for new food labeling regulations through December 31, 1975 for cottage cheese products, yogurts, sour cream products, frozen dessert novelties, and mellowine.

In the FEDERAL REGISTER of November 14, 1974 (39 FR 40184), the Commissioner issued a notice of an extension of the uniform effective date for new food labeling regulations through June 30, 1975. In that notice, the Commissioner advised that additional extensions up to,

but except in extraordinary circumstances not exceeding, 6 months beyond June 30, 1975 would be granted on a case-by-case basis if good cause is shown in the manner set forth in the notice published in the FEDERAL REGISTER of October 10, 1974 (39 FR 36501).

The Commissioner has received a letter dated April 7, 1975 from the Milk Industry Foundation (MIF) and the International Association of Ice Cream Manufacturers (IAICM) requesting on behalf of their memberships that the uniform effective date for all applicable labeling changes for cottage cheese products, yogurts, sour cream products, frozen dessert novelties, and mellowine be extended through December 31, 1975 for the reasons and information set forth in their submission.

In their submission, the MIF and the IAICM assert that, based on the number of containers and flavors marketed for these diverse dairy products, if membership companies of the MIF and the IAICM were to pursue individual extensions on a case-by-case basis, "the Food and Drug Administration would be deluged with upwards of 8,000 requests by May 1, 1975"; the information which would be provided in individual requests for extension, in most cases, would be identical with regard to the MIF's and IAICM's explanation as to why new labeling for these products cannot be employed by June 30, 1975; and that the MIF and the IAICM have attempted to present this information completely and forthrightly in a consolidated and efficient form.

The MIF and IAICM letter of April 7, 1975 is on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852 and may be examined by any interested party.

The Commissioner has considered the MIF and IAICM letter of April 7, 1975 and has determined that a 6-month extension through December 31, 1975 shall be granted for compliance by cottage cheese products, yogurts, sour cream products, frozen dessert novelties, and mellowine with the regulations set forth in the notice published in the FEDERAL REGISTER of November 14, 1974 (39 FR 40184), as applicable.

Dated: April 30, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.75-11923 Filed 5-6-75;8:45 am]

National Institutes of Health CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE Meeting

Notice is hereby given of the meeting of the Working Group on Reimbursement of the Cancer Control and Rehabilitation Advisory Committee, National Cancer Institute, June 9, 1975, Building 31, A Wing, Conference Room 4.

This meeting will be open to the public from 9 a.m. to 5 p.m. on June 9, 1975, to

discuss potential alternative methods of funding ongoing cancer control projects. Attendance by the public will be limited to space available.

For additional information, please contact: Dr. Veronica L. Conley, Blair Building, Room 7A07, Division of Cancer Control and Rehabilitation; National Cancer Institute, National Institutes of Health, Bethesda, Maryland 20014, (301) 427-7943.

Dated: April 30, 1975.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11928 Filed 5-6-75; 8:45 am]

CANCER PREVENTION ACTIVITIES WORKING GROUP

Meeting

Notice is hereby given of the meeting of the Working Group on Prevention Activities of the Cancer Control and Rehabilitation Advisory Committee, National Cancer Institute, June 9, 1975, Landow Building, Room C418.

This meeting will be open to the public from 9 a.m. to 5 p.m. on June 9, 1975, to discuss cancer prevention. Attendance by the public will be limited to space available.

For additional information, please contact: Dr. Ruby Isom, Blair Building, Room 7A07, Division of Cancer Control and Rehabilitation; National Cancer Institute, National Institutes of Health, Bethesda, Maryland 20014 (301) 427-7943.

Dated: April 30, 1975.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11930 Filed 5-6-75; 8:45 am]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, June 23-24, 1975, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on June 23, from 9 a.m. to 5 p.m. with current status reports, a scientific presentation, and review of the Growth and Development Program. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 24 from 9 a.m. to adjournment for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of the views

and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room C-603, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1756, will provide summaries of meetings and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health)

Dated: April 29, 1975.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11931 Filed 5-6-75; 8:45 am]

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, on June 23, 1975, in Building 31, Conference Room #7, National Institutes of Health, Bethesda, Maryland. This meeting will convene and be open to the public from 9 a.m. to 9:45 a.m. for opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:45 a.m. to adjournment for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Information Officer, National Eye Institute, National Institutes of Health, Building 31, Room 6A-27, Bethesda, Maryland 20014, telephone (301) 496-5248, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. William F. Raub, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496-4903.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health)

Dated: April 28, 1975.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11929 Filed 5-6-75; 8:45 am]

NATIONAL CANCER ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, June 16-18, 1975, National Institutes of Health, Building 31, Conference Room 6, with an evening session on June 16, to be held at the Holiday Inn, Bethesda, Maryland. The Board Subcommittees on Diagnosis and Treatment and Carcinogenesis and Prevention will also meet June 15, 1975, at 4 p.m., National Institutes of Health, Building 31, Conference Rooms 7 and 8 respectively.

The Board meeting will be open to the public on June 16 from 9 a.m. to 5 p.m. and 7:30 p.m. to 8 p.m.; June 17, from 2:30 p.m. to 5 p.m., and June 18, from 9 a.m. to adjournment. On June 16, reports will be presented by Subcommittees of the Board. Topics will include the Zinder Committee report, environmental carcinogenesis, and Centers, followed by reports on nutrition, the specialized clinical training programs, and the NCI biohazard program. On June 17, there will be reports on international programs, the Division of Cancer Treatment Program, and survival statistics. On June 18, reports will be presented on the Frederick Cancer Research Center, the NCI Office of Cancer Communications activities, NCI Program Coordination activities, a review of the smoking program, and proposed NCI/VA collaboration in cancer epidemiology. The Board Subcommittees will be open to review administrative details. Attendance by the public at these meetings will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the Board meeting will be closed to the public on June 17 from 9 a.m. to 1 p.m. and the Subcommittee meetings on June 15 from 4:30 p.m. to adjournment, for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of Board members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications. The Board will also be closed to the public from 8 p.m. to adjournment on June 16, to review (1) the National Cancer Institute budget for fiscal year 1977 and (2) the projections for the ensuing four years (1978-1981).

based on the 1977 budget, in accordance with the provisions of section 552(b)(5) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463.

Dr. Richard A. Tjalma, Assistant Director, NCI, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (496-5854) will provide summaries of the meetings, substantive program information, and rosters of Board members.

(Catalog of Federal Domestic Assistance Program Nos. 13.312; 13.314; 13.39; 13.392, National Institutes of Health)

Dated: April 29, 1975.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11932 Filed 5-6-75;8:45 am]

Office of the Secretary

CALIFORNIA

Intention To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area I of the State of California.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104 that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Redwood Coast Region PSRO for PSRO Area I, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Redwood Coast Region PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Redwood Coast Region PSRO are:

NAME AND OFFICE HELD

1. Stephen C. Cary, M.D., President.
2. James T. Robnett, M.D., Vice President.
3. Gertrude Van Steyn, M.D., Secretary.
4. Jons Vinding, M.D., Treasurer.

The official address of the corporation is 2200 County Center Drive, Santa Rosa, California 95401.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of California who objects to the Secretary entering into an agreement with the Redwood Coast Region PSRO on the grounds that this organization is not representative

of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 733 doctors of medicine and osteopathy are engaged in active practice in PSRO Area I of the State of California. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Redwood Coast Region PSRO is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11911 Filed 5-6-75;8:45 am]

CALIFORNIA

Intention To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area VI of the State of California.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the PSRO of San Mateo County for PSRO Area VI, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the PSRO of San Mateo County is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VI of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the PSRO of San Mateo County are:

NAME AND OFFICE HELD

1. Ranulf P. Beames, M.D., Incorporator.
2. Donald R. Hales, M.D., Incorporator.
3. Oscar W. Hills, M.D., Incorporator.

The official address of the corporation is 3030 La Selva, San Mateo, California 94403.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VI of the State of California who objects to the Secretary entering into an agreement with the PSRO of San Mateo County on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,328 doctors of medicine and osteopathy are engaged in active practice in PSRO Area VI of the State of California. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the PSRO of San Mateo County is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11918 Filed 5-6-75;8:45 am]

CALIFORNIA

Intention To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XII of the State of California.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Monterey Bay Area PSRO for PSRO

Area XII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Monterey Bay Area PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XII of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Monterey Bay Area PSRO are:

NAME AND OFFICE HELD

1. James E. Rasband, M.D., President.
2. Joseph E. Turner, M.D., Vice President.
3. Gerald A. Campbell, M.D., Secretary-Treasurer.
4. Robert C. Farr, M.D., Director.

The official address of the corporation is 19045 Portola Drive, P.O. Box No. 308, Salinas, California 93901.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XII of the State of California who objects to the Secretary entering into an agreement with the Monterey Bay Area PSRO on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 627 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XII of the State of California. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Monterey Bay Area PSRO is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11910 Filed 5-6-75; 8:45 am]

CALIFORNIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XXIV of the State of California.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with Area XXIV PSRO, Inc. for PSRO Area XXIV, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that Area XXIV PSRO, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XXIV of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of Area XXIV PSRO, Inc. are:

NAME AND OFFICE HELD

1. Raymond N. F. Killeen, M.D., Chairman.
2. Dan Asimus, M.D., Vice Chairman.
3. Robert Lee, M.D., Secretary.
4. Stan Price, J.D., Treasurer.

The official address of the corporation is 3200 Wilshire Boulevard, Suite 700, Los Angeles, California 90010.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XXIV of the State of California who objects to the Secretary entering into an agreement with Area XXIV PSRO, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 4,934 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XXIV of the State of California. In the event

that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether Area XXIV PSRO, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11916 Filed 5-6-75; 8:45 am]

CALIFORNIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XXVII of the State of California.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Riverside County PSRO for PSRO Area XXVII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Riverside County PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XXVII of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Riverside County PSRO are:

NAME AND OFFICE HELD

1. Raymond G. Richardson, M.D., Chairperson.
2. Mark E. Williamson, M.D., Vice Chairperson.
3. Carl Wolnitsky, M.D., Secretary-Treasurer.

The official address of the corporation is 6833 Indiana Avenue, Riverside, California 92506.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XXVII of the State of California who objects to the Secretary entering into an agreement with the Riverside County PSRO on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in

writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 821 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XXVII of the State of California. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Riverside County PSRO is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11917 Filed 5-6-75; 8:45 am]

DISTRICT OF COLUMBIA Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for the District of Columbia.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the National Capital Medical Foundation, Inc. for the District of Columbia, which area is designated a Professional Standards Review Organization area in 42 CFR 101.11.

The Secretary has determined that the National Capital Medical Foundation, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the District of Columbia, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the District of Columbia.

As stipulated in its Articles of Incorporation, the principal officers of the National Capital Medical Foundation, Inc. are:

NAME AND OFFICE HELD

1. Jesse Barber, M.D., President.
2. Warren Johnson, M.D., President Elect.
3. Norman A. Fuller, Ph.D., M.P.H., Secretary-Treasurer.

The official address of the corporation is 2007 Eye Street, N.W., Washington, D.C. 20006.

Any licensed doctor of medicine or osteopathy engaged in active practice in the District of Columbia who objects to the Secretary entering into an agreement with the National Capital Medical Foundation, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 4,379 doctors of medicine and osteopathy are engaged in active practice in the District of Columbia. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the National Capital Medical Foundation, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11906 Filed 5-6-75; 8:45 am]

MAINE

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for the State of Maine.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Pine Tree Organization for Professional Standards Review, Inc. for the State of Maine, which area is designated a Professional Standards Review Organization area in 42 CFR 101.23.

The Secretary has determined that the Pine Tree Organization for Professional Standards Review, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as Specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Maine, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Maine.

As stipulated in its Articles of Incorporation, the principal officers of the Pine Tree Organization for Professional Standards Review, Inc. are:

NAME AND OFFICE HELD

1. Richard T. Chamberlin, M.D., President.
2. J. Chase Rand, D.O., Vice President.
3. Harry A. Bliss, M.D., Clerk.
4. Michael A. Longo, D.O., Treasurer.

The official address of the corporation is P.O. Box 706, 99 Western Avenue, Augusta, Maine 04330.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Maine who objects to the Secretary entering into an agreement with the Pine Tree Organization for Professional Standards Review, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,688 doctors of medicine and osteopathy are engaged in active practice in the State of Maine. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Pine Tree Organization for Professional Standards Review, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11908 Filed 5-6-75; 8:45 am]

MARYLAND

Intent To Designate PSRO

Notice to Physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area II of the State of Maryland.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Baltimore City Professional Standards Review Organization for PSRO Area II, which area is designated a Professional Standards Review Organization area in 42 CFR 101.24.

The Secretary has determined that the Baltimore City Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Maryland, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Maryland.

As stipulated in its Articles of Incorporation, the principal officers of the Baltimore City Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. Louis J. Kolodner, M.D., President.
2. John B. Hoff, M.D., Chairman.
3. Douglas G. Carroll, M.D., Vice President.
4. Ian R. Anderson, M.D., Secretary.
5. Richard London, M.D., Treasurer.

The official address of the corporation is Village of Cross Keys, Quadrangle Building, Suite 262, 2 Hamill Road, Baltimore, Maryland 21210.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Maryland who objects to the Secretary entering into an agreement with the Baltimore City Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 4,295 doctors

of medicine and osteopathy are engaged in active practice in PSRO Area II of the State of Maryland. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Baltimore City Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11901 Filed 5-6-75; 8:45 am]

MARYLAND

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area V of the State of Maryland.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organization structure and formal plan to enter into an agreement with the Central Maryland Professional Standards Review Organization, Inc. for PSRO Area V, which area is designated a Professional Standards Review Organization area in 42 CFR 101.24.

The Secretary has determined that the Central Maryland Professional Standards Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Maryland, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Maryland.

As stipulated in its Articles of Incorporation, the principal officers of the Central Maryland Professional Standards Review Organization, Inc. are:

NAME AND OFFICE HELD

1. James D. Drinkard, M.D., Chairman.
2. Lewis N. Newburgh, M.D., Vice Chairman.
3. Marco Clayton, M.D., Treasurer.
4. Richard Y. Dalrymple, M.D., Secretary.

The official address of the corporation is 10 Gerard Avenue, Timonium, Maryland 21093.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Maryland who objects to the Secretary entering

into an agreement with the Central Maryland Professional Standards Review Organization, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,207 doctors of medicine and osteopathy are engaged in active practice in PSRO Area V of the State of Maryland. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Central Maryland Professional Standards Review Organization, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11904 Filed 5-6-75; 8:45 am]

MARYLAND

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area VI of the State of Maryland.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Southern Maryland Professional Standards Review Organization, Inc. for PSRO Area VI, which area is designated a Professional Standards Review Organization area in 42 CFR 101.24.

The Secretary has determined that the Southern Maryland Professional Standards Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Maryland, as a nonprofit

professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VI of the State of Maryland.

As stipulated in its Articles of Incorporation, the principal officers of the Southern Maryland Professional Standards Review Organization, Inc. are:

NAME AND OFFICE HELD

1. Theodore G. Ostus, Jr., M.D., Chairman.
2. Juanito C. Roa, M.D., Vice Chairman.
3. Robert B. Helmly, M.D., President-Treasurer.
4. Nirendra Bhaduri, M.D., Vice President.
5. Page C. Jett, Secretary.

The official address of the corporation is P.O. Box 445, Edgewater, Maryland 21037.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VI of the State of Maryland who objects to the Secretary entering into an agreement with the Southern Maryland Professional Standards Review Organization, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy, (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 484 doctors of medicine and osteopathy are engaged in active practice in PSRO Area VI of the State of Maryland. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Southern Maryland Professional Standards Review Organization, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11903 Filed 5-6-75; 8:45 am]

MICHIGAN

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area V of the State of Michigan.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Professional Review Organization-GLSC for PSRO Area V, which area is designated a Professional Standards Review Organization area in 42 CFR 101.26.

The Secretary has determined that the Professional Review Organization-GLSC is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Michigan, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Michigan.

As stipulated in its Articles of Incorporation, the principal officers of the Professional Review Organization-GLSC are:

NAME AND OFFICE HELD

1. Frederick W. Van Dwyne, M.D., President.
2. George J. Schappach, D.O., Vice President.
3. Robert J. Rathburn, M.D., Secretary.
4. Vernon C. Ulrich, M.D., Treasurer.

The official address of the corporation is 700 Metropolitan Building, 432 North Saginaw Street, Flint, Michigan 48502.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Michigan who objects to the Secretary entering into an agreement with the Professional Review Organization-GLSC on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 782 doctors of medicine and osteopathy are engaged in active practice in PSRO Area V of the State of Michigan. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine

whether the Professional Review Organization-GLSC is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11912 Filed 5-6-75; 8:45 am]

NEW JERSEY

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area II of the State of New Jersey.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Passaic Valley Professional Standards Review Organization for PSRO Area II, which area is designated a Professional Standards Review Organization area in 42 CFR 101.34.

The Secretary has determined that the Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New Jersey, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of the State of New Jersey.

As stipulated in its Articles of Incorporation, the principal officers of the Passaic Valley Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. William A. Dwyer, Jr., M.D., President.
2. Edward P. Healy, M.D., Vice President.
3. John P. Pellosie, D.O., Secretary.
4. Samuel Baum, M.D., Treasurer.

The official address of the corporation is 642 Broad Street, Clifton, New Jersey, 07013.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of New Jersey who objects to the Secretary entering into an agreement with the Passaic Valley Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the loca-

tion(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,124 doctors of medicine and osteopathy are engaged in active practice in PSRO Area II of the State of New Jersey. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Passaic Valley Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11895 Filed 5-6-75;8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area I of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with The Erie Region Professional Standards Review Organization for PSRO Area I, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that The Erie Region Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of The Erie Region Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. Bernard M. Reen, M.D., Chairman.
2. Irwin Feisen, M.D., Vice Chairman.
3. Maria A. Crea, M.D., Secretary.
4. Duane Tucker, D.O., Treasurer.

The official address of the corporation is 1514 Marine Trust Building, 237 Main Street, Buffalo, New York 14203.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of New York who objects to the Secretary entering into an agreement with The Erie Region Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,791 doctors of medicine and osteopathy are engaged in active practice in PSRO Area I of the State of New York. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether The Erie Region Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11894 Filed 5-6-75;8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area II of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with The Genesee Region PSRO,

Inc. for PSRO Area II, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that The Genesee Region PSRO, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of The Genesee Region PSRO, Inc. are:

NAME AND OFFICE HELD

1. William L. Craver, M.D., President.
2. Donald S. Raines, M.D., Vice President.
3. William H. Dean, M.D., Secretary.
4. James M. Flannagan, M.D., Treasurer.

The official address of the corporation is 1441 East Avenue, Rochester, New York 14610.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of New York who objects to the Secretary entering into an agreement with The Genesee Region PSRO, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,128 doctors of medicine and osteopathy are engaged in active practice in PSRO Area II of the State of New York. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether The Genesee Region PSRO, Inc. is representative of such doctors in such area.

Dated: April 29, 1974.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11897 Filed 5-6-75;8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area IX of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with Area 9 PSRO of New York State, Inc. for PSRO Area IX, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that Area 9 PSRO of New York State, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of Area 9 PSRO of New York State, Inc. are:

NAME AND OFFICE HELD

1. Charles Weller, M.D., President.
2. Allison B. Landait, M.D., Vice President.
3. Katherine L. Friedmann, M.D., Secretary.
4. Robert A. Mayers, M.D., Treasurer.

The official address of the corporation is Carl and Lily Pforzheimer Memorial Building, Purchase Street, Purchase, New York 10577.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of New York who objects to the Secretary entering into an agreement with Area 9 PSRO of New York State, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 3,398 doctors of medicine and osteopathy are engaged in active practice in PSRO Area IX of the State of New York. In the event that

more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Area 9 PSRO of New York State, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11898 Filed 5-6-75;8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area X of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Professional Standards Review Organization of Rockland, Inc. for PSRO Area X, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that the Professional Standards Review Organization of Rockland, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area X of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of the Professional Standards Review Organization of Rockland, Inc. are:

NAME AND OFFICE HELD

1. Howard Goldstein, M.D., Chairman.
2. Arthur A. Stern, M.D., Second Vice Chairman.
3. Bernard Berson, M.D., Treasurer.

The official address of the corporation is 120 Main Street, New City, New York 10956.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area X of the State of New York who objects to the Secretary entering into an agreement with the Professional Standards Review Organization of Rockland, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before

June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 706 doctors of medicine and osteopathy are engaged in active practice in PSRO Area X of the State of New York. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Professional Standards Review Organization of Rockland, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11899 Filed 5-6-75;8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XIII of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiations process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Kings County Health Care Review Organization, Inc. for PSRO Area XIII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that the Kings County Health Care Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XIII of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of the Kings County Health Care Review Organization, Inc. are:

NAME AND OFFICE HELD

1. Joseph R. Fontanetta, M.D., Chairman.
2. George Liberman, M.D., Vice Chairman.
3. Ralph M. Schwartz, M.D., Secretary.
4. Julius E. Stof, M.D., Treasurer.

The official address of the corporation is 1313 Bedford Avenue, Brooklyn, New York 11216.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XII of the State of New York who objects to the Secretary entering into an agreement with the Kings County Health Care Review Organization, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 5,485 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XIII of the State of New York. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Kings County Health Care Review Organization, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11907 Filed 5-6-75; 8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XV of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Wel-

fare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Nassau Physicians Review Organization, Inc. for PSRO Area XV, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that the Nassau Physicians Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XV of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of the Nassau Physicians Review Organization, Inc. are:

NAME AND OFFICE HELD

1. Joseph F. Chiaramonte, M.D., President.
2. George B. Pollock, M.D., Vice President.
3. Arnold M. Behrer, Jr., M.D., Secretary.
4. Thomas J. Sheehy, M.D., Treasurer.

The official address of the corporation is 1200 Stewart Avenue, Garden City, New York 11530.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XV of the State of New York who objects to the Secretary entering into an agreement with the Nassau Physicians Review Organization, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 3,913 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XV of the State of New York. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Nassau Physicians Review

Organization, Inc. is representative of such doctors in such area.

Dated April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11909 Filed 5-6-75; 8:45 am]

NEW YORK

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XVI of the State of New York.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with The Bronx Medical Services Foundation, Inc. for PSRO Area XVI, which area is designated a Professional Standards Review Organization area in 42 CFR 101.36.

The Secretary has determined that The Bronx Medical Services Foundation, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New York, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XVI of the State of New York.

As stipulated in its Articles of Incorporation, the principal officers of The Bronx Medical Services Foundation, Inc. are:

NAME AND OFFICE HELD

1. Anthony J. Altieri, M.D., President.
2. Isiah Gross, M.D., Vice President.
3. Alan Goldberg, M.D., Secretary-Treasurer.

The official address of the corporation is 684 Britton Street, Bronx, New York 10467.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XVI of the State of New York who objects to the Secretary entering into an agreement with The Bronx Medical Services Foundation, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station,

New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 3,652 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XVI of the State of New York. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether The Bronx Medical Services Foundation, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11896 Filed 5-6-75;8:45 am]

OREGON

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area II of the State of Oregon.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Greater Oregon Professional Standards Review Organization for PSRO Area II, which area is designated a Professional Standards Review Organization area in 42 CFR 101.41.

The Secretary has determined that the Greater Oregon Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Oregon, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Oregon.

As stipulated in its Articles of Incorporation, the principal officers of the Greater Oregon Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. Hugh B. Johnson, M.D., President.
2. Gaylord C. Weeks, M.D., Vice President.
3. Daniel B. Bond, D.O., Secretary.
4. Robert S. Miller, M.D., Treasurer.

The official address of the corporation is 2164 S.W. Park Place, Portland, Oregon 97205.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Oregon who objects to the Secretary entering into an agreement with the Greater Oregon Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,031 doctors of medicine and osteopathy are engaged in active practice in PSRO Area II of the State of Oregon. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Greater Oregon Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11915 Filed 5-6-75;8:45 am]

PENNSYLVANIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area VII of the State of Pennsylvania.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Southwestern Pennsylvania PSRO for PSRO Area VII, which

area is designated a Professional Standards Review Organization area in 42 CFR 101.42.

The Secretary has determined that the Southwestern Pennsylvania PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Pennsylvania, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VII of the State of Pennsylvania.

As stipulated in its Articles of Incorporation, the principal officers of the Southwestern Pennsylvania PSRO are:

NAME AND OFFICE HELD

1. Donald C. Brown, M.D., Chairman.
2. Jack G. Hallisy, M.D.
3. William J. Mitchell, M.D.
4. Douglas A. Dunham, D.O.
5. Calvin C. Rush, M.D.
6. Thomas J. Whalen, M.D.

The official address of the corporation is 825 North Main Street, Greensburg, Pennsylvania 15601.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VIII of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Southwestern Pennsylvania PSRO on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 845 doctors of medicine and osteopathy are engaged in State of Pennsylvania. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Southwestern Pennsylvania PSRO is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11900 Filed 5-6-75;8:45 am]

PENNSYLVANIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area IX of the State of Pennsylvania.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Southcentral Pennsylvania Professional Standards Review Organization for PSRO Area IX, which area is designated a Professional Standards Review Organization area in 42 CFR 101.42.

The Secretary has determined that the Southcentral Pennsylvania Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Pennsylvania, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of Pennsylvania.

As stipulated in its Articles of Incorporation, the principal officers of the Southcentral Pennsylvania Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. James Z. Appel, M.D., President.
2. Joseph E. Green, III, M.D., Vice President.
3. John McA. Ulrich, D.O., Secretary.
4. Robert B. Edmiston, M.D., Treasurer.

The official address of the corporation is 2401 North Fourth Street, Harrisburg, Pennsylvania 17110.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Southcentral Pennsylvania Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,644 doctors of medicine and osteopathy are engaged in active practice in PSRO Area IX of the State of Pennsylvania. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Southcentral Pennsylvania Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11902 Filed 5-6-75; 8:45 am]

PENNSYLVANIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XI of the State of Pennsylvania.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Montgomery/Bucks Professional Standards Review Organization, Inc. for PSRO Area XI, which area is designated a Professional Standards Review Organization area in 42 CFR 101.42.

The Secretary has determined that the Montgomery/Bucks Professional Standards Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Pennsylvania, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XI of the State of Pennsylvania.

As stipulated in its Articles of Incorporation, the principal officers of the Montgomery/Bucks Professional Standards Review Organization, Inc. are:

NAME AND OFFICE HELD

1. John L. Steigerwalt, M.D., President.
2. Julio Vassalluzzo, M.D., Vice President.
3. Manuel A. Bergnes, M.D., Secretary.
4. Arnold Sokol, D.O., Treasurer.

The official address of the corporation is Suite 103, Merion-Towle Building, Township Line & Walton Road, Blue Bell, Pennsylvania 19422.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XI of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Montgomery/Bucks Professional Standards Review Organization, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 3,470 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XI of the State of Pennsylvania. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Montgomery/Bucks Professional Standards Review Organization, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-11920 Filed 5-6-75; 8:45 am]

PENNSYLVANIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for PSRO Area XII of the State of Pennsylvania.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Philadelphia Professional Standards Review Organization for PSRO Area XII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.42.

The Secretary has determined that the Philadelphia Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization

as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Pennsylvania, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XII of the State of Pennsylvania.

As stipulated in its Articles of Incorporation, the principal officers of the Philadelphia Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. Sidney O. Krasnoff, M.D., Chairman.
2. Avery W. Beverly, M.D.
3. Jerome Miller, D.O.
4. Charles W. Semisch, III, M.D.
5. George Ross Fisher, M.D.
6. Gabriel F. Tucker, M.D.

The official address of the corporation is 2100 Spring Garden Street, Philadelphia, Pennsylvania 19130.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XII of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Philadelphia Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 7,007 doctors of medicine and osteopathy are engaged in active practice in PSRO Area XII of the State of Pennsylvania. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Philadelphia Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11919 Filed 5-6-75;8:45 am]

SOUTH CAROLINA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating

Professional Standards Review Organization for the State of South Carolina.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the South Carolina Medical Care Foundation for the State of South Carolina, which area is designated a Professional Standards Review Organization area in 42 CFR 101.45.

The Secretary has determined that the South Carolina Medical Care Foundation is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of South Carolina, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of South Carolina.

As stipulated in its Articles of Incorporation, the principal officers of the South Carolina Medical Care Foundation are:

NAME AND OFFICE HELD

1. Kenneth N. Owens, M.D., President.
2. Halsted M. Stone, M.D., Vice President.
3. Randolph D. Smoak, Jr., M.D., Secretary-Treasurer.

The official address of the corporation is P.O. Box 11188, Capitol Station, Columbia, South Carolina 29211.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of South Carolina who objects to the Secretary entering into an agreement with the South Carolina Medical Care Foundation on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,960 doctors of medicine and osteopathy are engaged in active practice in the State of South Carolina. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether

the South Carolina Medical Care Foundation is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-11913 Filed 5-6-75;8:45 am]

WASHINGTON

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for the State of Washington.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Washington State Professional Standards Review Organization for the State of Washington, which area is designated a Professional Standards Review Organization area in 42 CFR 101.53.

The Secretary has determined that the Washington State Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Washington, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Washington.

As stipulated in its Articles of Incorporation, the principal officers of the Washington State Professional Standards Review Organization are:

NAME AND OFFICE HELD

1. Richard L. Porus, M.D., President.
2. John S. May, M.D., Vice President.
3. Robert A. Fithian, M.D., Treasurer.

The official address of the corporation is 2150 North 107th Street, Suite 504, Seattle, Washington 98133.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Washington who objects to the Secretary entering into an agreement with the Washington State Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such

physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 5,775 doctors of medicine and osteopathy are engaged in active practice in the State of Washington. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Washington State Professional Standards Review Organization is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11914 Filed 5-6-75;8:45 am]

WEST VIRGINIA

Intent To Designate PSRO

Notice to physicians regarding intention to enter into agreement designating Professional Standards Review Organization for the State of West Virginia.

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan to enter into an agreement with the West Virginia Medical Institute, Inc. for the State of West Virginia, which area is designated a Professional Standards Review Organization area in 42 CFR 101.54.

The Secretary has determined that the West Virginia Medical Institute, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of West Virginia, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of West Virginia.

As stipulated in its Articles of Incorporation, the principal officers of the West Virginia Medical Institute, Inc. are:

NAME AND OFFICE HELD

1. Harry S. Weeks, M.D., President.
2. Oscar J. Bailes, D.O., Vice President.
3. Jimmie L. Mangus, M.D., Secretary.
4. Robert R. Weller, M.D., Treasurer.

The official address of the corporation is 4701 MacCorkle Avenue S.E., Charleston, West Virginia 25304.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of West Virginia who objects to the Secretary entering into an agreement with the West Virginia Medical Institute, Inc. on the grounds that this organization is not representative of the doctors in such area may, on or before June 6, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,041 doctors of medicine and osteopathy are engaged in active practice in the State of West Virginia. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the West Virginia Medical Institute, Inc. is representative of such doctors in such area.

Dated: April 29, 1975.

HENRY E. SIMMONS,
Acting Deputy Assistant Secretary
for Health, Director, Office
of Professional Standards
Review.

[FR Doc.75-11905 Filed 5-6-75;8:45 am]

UNITED STATES INFORMATION AGENCY

U.S. ADVISORY COMMISSION ON INFORMATION

Notice of Meeting

MAY 1, 1975.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting to be held on June 2, 1975. The session will commence at 9:15 a.m. in Room 1100 at 1776 Pennsylvania Avenue NW., Washington, D.C. The subject of the meeting is "Resources Overview."

This session will be open to the general public. Persons wishing to attend the Commission's meeting should contact Mr. Louis T. Olom, Staff Director, U.S. Advisory Commission on Information, Room 1008, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547, telephone 632-5210, so that adequate space will be assured. Written statements concerning topic set forth in the agenda should also be submitted to Mr. Olom.

MARGARET J. MILLER,
Federal Register
Liaison Officer.

[FR Doc.75-11933 Filed 5-6-75;8:45 am]

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 786]

SECRETARY TO THE GOVERNOR, LEGISLATIVE RESEARCH ASSISTANT, AND SECRETARY

Authorization To Authenticate Documents, Certify Official Records, and Affix Seal

1. Helen E. McWilliams, Secretary to the Governor, D. Elizabeth Frew, Legislative Research Assistant, and Barbara V. Mitchell, Secretary, severally and not jointly, are authorized and empowered:

(a) To execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from, official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of the records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the supervision or direction of the Farm Credit Administration.

(b) To sign official documents and to affix the seal of the Farm Credit Administration thereon for the purpose of attesting the signatures of officials of the Farm Credit Administration.

2. The provisions of this order shall be effective May 2, 1975, and on that date shall supersede Farm Credit Administration Order No. 768, dated July 19, 1973, 38 FR 19926.

W. M. HARDING,
Governor,

Farm Credit Administration.

[FR Doc.75-11972 Filed 5-6-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 75-091]

MARINE SANITATION DEVICES

Certifications Granted

The purpose of this document is to notify interested persons that the Commandant, U.S. Coast Guard, has certified the design of certain marine sanitation devices in accordance with 33 CFR 159.12.

Equipment that is certified under 33 CFR 159.12 cannot be labelled under 33 CFR 159.16 as being certified. Because of this fact, purchasers of these devices are urged to request a copy of the Coast Guard letter granting certification of the device from the manufacturer or dealer. The "verification" column in the list below shows the date of the Coast Guard letter granting certification. A copy of the certification letter or this Notice should be retained by the owner as evidence that the device has been certified by the Coast Guard.

(33 U.S.C. 1322, 49 CFR 1.46 (I) and (m))

Dated: April 21, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

Marine sanitation devices certified by the U.S. Coast Guard as of Apr. 10, 1975, pursuant to the provisions of 33 CFR, pt. 159

Owner (O) or manufacturer (M)	Device	Model No.	Type	Certification applies to—	Label	Certification No.	Verification
Bridge, Warren (O), Warren Bridge's Landing, Federal Dam, Mont. 56641.	Penta-potti and installation kit.	259.73506 and 259.73525.	No discharge.	System aboard: The vessel and no others.	No.....	None assigned.	USCG letter of Mar. 14, 1975.
Electrode Corp. (M), P.O. Box 229, Chardon, Ohio 44024 (Baritan).	Lectra/san.	None assigned.	Discharge.	All manufacturing before Jan. 30, 1976.	do.....	do.....	USCG letter of Apr. 8, 1975.
Firestone Coated Fabrics Co. (M), Box 887, U.S. Highway 82 B W., Magnolia, Ariz. 71753.	Flexible holding tank.	Model No. 15..... Model No. 30..... Model No. 40.....	No discharge..... do..... do.....	do..... do..... do.....	do..... do..... do.....	do..... do..... do.....	USCG letter of Mar. 14, 1975. Do. Do.
Hyde Products, Inc. (M), 810 Sharon Dr., Westlake, Ohio 44145.	Physical/chemical waste treatment system.	None assigned.	Discharge.	Systems aboard: Sir. T. W. Robinson..... Sir. Consumers Power..... Sir. John Sherwin..... MV Venus..... Sir. Elton Hoyt..... Sir. Charles M. Beeghley..... MV Charles Wilson..... Sir. J. L. Mauthe..... MV H. Lee White..... MV Sam Land..... Bay Shipbuilding Hull 714..... American Shipbuilding Hull 905..... American Shipbuilding Hull 906 and no others.	do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do.....	do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do.....	USCG letter of Feb. 12, 1975. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do.
Jered Industries (M), 1300 S. Coolidge Rd., Birmingham, Mich. 48008.	Vacuum flush sewage treatment system.	do.....	No discharge.	Systems aboard: Avondale Hull 2265..... Avondale Hull 2267..... Avondale Hull 2268..... Newport News Hull 608..... Newport News Hull 609..... Newport News Hull 610..... and no others.	do..... do..... do..... do..... do..... do..... do.....	do..... do..... do..... do..... do..... do..... do.....	USCG letter of Feb. 19, 1975. Do. Do. Do. Do. Do. Do.
Kadas Kampers, Inc. (M), 1724 Laskin Rd., Virginia Beach, Va. 23454.	Ecolet.	do.....	do.....	All manufacturing before Jan. 30, 1976.	do.....	do.....	USCG letter of Feb. 26, 1975.
Koehler-Dayton, Inc. (M), P.O. Box 309, New Britain, Conn. 06050.	Konvert-A-Head.	13-701595.	do.....	do.....	do.....	do.....	USCG letter of Mar. 18, 1975.
	Commodore.	1-110445.	do.....	do.....	do.....	do.....	Do.
	MSTS system.	702765-1.	do.....	System aboard: MV John F. Kennedy and no others.	do.....	do.....	Do.
	EnviroJet.	1-143555.	do.....	Systems aboard: MV Vincent D. Tibbets..... MV Texaco Explorer and no others.	do..... do..... do.....	do..... do..... do.....	Do. USCG letter of Apr. 8, 1975.
	do.	1-143555.	do.....	do.....	do.....	do.....	Do.
	EnviroMac.	None assigned.	Discharge.	Systems aboard: MV Magnolia..... MV Lemmerhirt..... MV No. 25..... MV Alabama Belle..... MV Robin..... MV Alamo..... MV John Henry..... MV Pacific Seahorse..... MV Atlantic Seahorse..... MV Valda..... MV Billy Harrison..... MV Thatcher..... MV D. H. LeMay..... MV Billy Houser..... MV Lynda Anne..... MV Victor II..... MV Percy L. LeMay..... MV Jim Vickers..... MV Leslie Vickers and no others.	do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do.....	do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do..... do.....	Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do. Do.
LaMere Industries, Inc. (M), Waiworth, Wis. 53184.	Destrollet.	57 P5C..... 57 N5C..... 57 P9C..... 57 N9C..... 57 E9C..... 57 P2C..... 57 N2C.....	No discharge..... do..... do..... do..... do..... do..... do.....	All manufacturing before Jan. 30, 1976.	do..... do..... do..... do..... do..... do..... do.....	do..... do..... do..... do..... do..... do..... do.....	USCG letter of Feb. 18, 1975. Do. Do. Do. Do. Do. Do. Do.
Manafield Sanitary, Inc. (M), 150 First St., Perrysville, Ohio 44864.	Vacu-Flush system.	Heads: 206, 208, 248, 306, 308, 348, 406E, 406M, 408E, 408M, 448E, 448M. Vacuum Pumps: 6112, 6061, 6124, 6100, 6132, 6062, 6629, 7104, 8115A, 832D, 812D. Vacuum Tanks: 5914151, 5914301, 580012, 580030, 580060, 7291. Holding Tanks: 590012, 590020, 590030, 590042, 5915151, 5915201, and no others.	do..... do..... do.....	All Vacu-Flush systems manufactured prior to Jan. 30, 1976, which are made up of the components listed herein, and their associated controls.	do..... do..... do.....	do..... do..... do.....	USCG letter of Mar. 28, 1975.
	Toilet with holding tank.	011-M28..... 012-M28..... M-8..... M-10..... M-12..... TA-200.....	do..... do..... Discharge..... do..... do..... do.....	All manufacturing before Jan. 30, 1976.	do..... do..... do..... do..... do..... do.....	do..... do..... do..... do..... do..... do.....	Do. Do. USCG letter of Apr. 8, 1975. Do. Do. Do.
Microphor, Inc. (M), P.O. Box 400, Willits, Calif. 95400.	Marine waste treatment system.	do.....	do.....	do.....	do.....	do.....	Do.

Marine sanitation devices certified by the U.S. Coast Guard as of Apr. 10, 1975, pursuant to the provisions of 33 CFR, pt. 169—Continued

Owner (O) or manufacturer (M)	Device	Model No.	Type	Certification applies to—	Label	Certification No.	Verification
Monogram Industries (M), 1165 East 220th St., Carson, Calif. 90745.	Monomatic	1-SE	No discharge	do	do	do	USCG letter of Mar. 18, 1975.
	do	3-SE	do	do	do	do	Do.
	do	3-SLPE	do	do	do	do	Do.
	Monomatic II	641	do	do	do	do	Do.
	Handihead	4050	do	do	do	do	Do.
	Handihead II	154	do	do	do	do	Do.
	Super monomatic	8-100	do	do	do	do	Do.
	Monotank	469	do	do	do	do	Do.
	Extendo tank	768	do	do	do	do	Do.
	Jet-O-Matic	600 (160M)	do	do	do	do	Do.
	do	602 (160M-P)	do	do	do	do	Do.
	do	602 (160M-PA)	do	do	do	do	Do.
Moran Towing & Transportation (O), 1 World Trade Center, Suite 5335, New York, N.Y. 10048.	Recirculating system.	None assigned	do	Systems aboard: McDermott Hull #10	do	do	USCG letter of Mar. 20, 1975.
				McDermott Hull #11	do	do	Do.
				McDermott Hull #12	do	do	Do.
				McDermott Hull #13 and no others.	do	do	Do.
				Systems aboard: MV Laura Elizabeth	do	do	USCG letter of Mar. 28, 1975.
Southern Towing Co. (O), 1814 First National Bank Bldg., P.O. Box 411, Memphis, Tenn. 38101.	"Crouse" type system.	do	do	MV James L. Williams	do	do	Do.
				MV Dorothy L. Southern	do	do	Do.
				MV Katy Riley	do	do	Do.
				MV John M. Warner	do	do	Do.
				MV Jim Southern	do	do	Do.
				MV Charles Southern	do	do	Do.
				MV C. B. Southern	do	do	Do.
				MV Robert Ingle	do	do	Do.
				MV Clark Frame	do	do	Do.
				Mainstream Shipyard Hull No. 7360 and no others.	do	do	Do.

[FR Doc.75-11814 Filed 5-6-75;8:45 am]

Federal Railroad Administration RAILROAD OPERATING RULES ADVISORY COMMITTEE

Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Railroad Operating Rules Advisory Committee will hold its next two meetings on Wednesday and Thursday, May 28 and 29, 1975 and on Wednesday, June 18, 1975.

The Committee was established to provide advice to the Federal Railroad Administration concerning solutions to problem areas involving the operating rules of the nation's railroads.

The meeting on May 28 and 29, 1975 will be held at the Department of Transportation's Transportation Safety Institute (TSI), Oklahoma City, Oklahoma, commencing at 9 a.m. each day. The agenda for this meeting will include a continuation of the need for radio rules

within the railroad industry, and a continuation of consideration of rule 99 flagging requirements. The half-day meeting on May 29 will include a briefing on the training facilities and programs which are presently being conducted by the Department of Transportation at TSI.

The meeting on June 18, 1975 will be held in Room 5332-34, Nassif Building, 400 Seventh Street SW., Washington, D.C., at 9 a.m. At that meeting, the Committee will continue its consideration of rule 99 flagging requirements, and will commence consideration of rule 93 governing yard speeds.

These meetings will be open to the public. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so. Under a procedure established by the Committee, persons submitting written statements are requested to provide 15 copies to provide distribution to each of the Committee members. Members of the

public who wish to make prepared oral presentations should inform the Office of the Chief Counsel, Federal Railroad Administration (202) 426-8220 at least 5 days prior to each of these meetings if possible and reasonable provision will be made for their appearance on the agenda. Time will also be provided on the agenda for public comments with respect to the discussions during these meetings.

Minutes of the meeting will be made available for public inspection and duplication during regular business hours in the Office of Chief Counsel, Federal Railroad Administration, Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Issued in Washington, D.C. on April 30, 1975.

ASAPH H. HALL,
Deputy Administrator
(Committee Chairman).

[FR Doc.75-11954 Filed 5-6-75;8:45 am]

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM-1, Rule-making procedure of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during April 1975.

Special permit No.	Issued to—Subject	Mode or modes of transportation
SP 6792	Dubois Chemicals, Sharonville, Ohio to ship Titration kits containing sodium hydroxide and sulfuric acid packed with non-hazardous articles.	Motor vehicle, Cargo-only aircraft, Rail freight, Rail express.
SP 6921	Kansas Refined Helium, Wichita, Kans., to ship liquefied helium in an insulated containerized portable tank having a design pressure of 65 psig and a nominal water capacity of 10,800 gallons.	Cargo vessel, Motor vehicle.
SP 6968	Western Electric Co., Reading, Pa., and Bell Laboratories, Murray Hill, N.J., to ship Hydrogen peroxide or Nitric acid in certain type inside polyethylene bottles, having a capacity of approximately 1000 ml and a minimum wall thickness of 0.030 inch, packed in wooden boxes equivalent to DOT Specification 15A.	Motor vehicle.
SP 6991	Allied Chemical Corp., Morristown, N.J., to make one shipment of Nitric acid in a DOT Specification 103CW tank car overdue for retest.	Rail freight.
SP 6994	Chem Spray Aerosols, Inc., Houston, Tex., to ship certain compressed gases in inside non-refillable metal containers constructed in compliance with DOT Specification 2P or 2Q except a minimum wall thickness of 0.0090 inch is authorized.	Motor vehicle, Rail freight, Rail express.
SP 6995	American Transfer Co., Fresno, Calif., to transport Phosphoric acid or solutions thereof in Specification MC-303 tank motor vehicles.	Motor vehicle.
SP 6996	Sterling Drug Inc., New York, New York, to ship a certain corrosive liquid packaged in accordance with § 173.245(a) (13) or (18) and overpacked with non-hazardous materials in strong outside fiberboard boxes.	Motor vehicle, Cargo-only aircraft.
SP 6997	Pargas, Honesdale, Pa., to ship Propane or liquefied petroleum gas in a privately owned and operated tank motor vehicle having a non-DOT specification cargo tank built to paragraph U-69 of the 1949 ASME Code.	Motor vehicle.
SP 7003	General Electric Co., Philadelphia, Pa., to ship solid methane and solid ammonia as specified in DOT Special Permit No. 6733 with certain exceptions.	Motor vehicle, Cargo-only aircraft.
SP 7004	Green Associated, Fairbanks, Alaska, to make limited shipments of Propane in non-DOT specification steel portable tanks manufactured in accordance with the ASME Code.	Cargo-only aircraft.

J. R. GROTHE,
Alternate Secretary.

[FR Doc.75-12009 Filed 5-6-75; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27664]

PAN AMERICAN WORLD AIRWAYS, INC.

Proposed Approval

Application of Pan American World Airways, Inc., for approval of control relationship pursuant to section 408, or exemption therefrom under section 416, or, in the alternative, disclaimer of jurisdiction Docket 27664.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until May 22, 1975, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., May 2, 1975.

[SEAL] WILLIAM B. CALDWELL, Jr.,
Director, Bureau of
Operating Rights.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

PAN AMERICAN WORLD AIRWAYS,
CONTROL RELATIONSHIP

[Docket 27664]

Issued under delegated authority

Application of Pan American World Airways, Inc., for approval of control relationship pursuant to section 408, or exemption

therefrom under section 416, or, in the alternative, disclaimer of jurisdiction

Order Approving Control Relationship

Pan American World Airways, Inc. (Pan American), has requested that the Board approve under section 408 of the Federal Aviation Act of 1958, as amended (the Act), without a hearing in accordance with the third proviso of paragraph (b) of said section, or grant an exemption therefrom, with respect to its continuing control of Pan American Technical Services, Inc. (Technical Services), as concerns activities that such subsidiary may engage in which may be deemed to be in a phase of aeronautics.¹

Technical Services is a Florida corporation which was organized in early 1975 to provide technical and support services under contract to State, Federal, and foreign governments and to private industry.

According to the applicant, Technical Services' operations are presently of a limited nature. Its Engineering and Design Services Division, which is its only existing division, is presently under contract to NASA's Kennedy Space Center to provide architectural and engineering services for the design of facility modifications to the buildings for the fluid test complex and the launch control center to be used in connection with space shuttle activities at the Kennedy Space Center. Pan American anticipates that the activities in which Technical Services might engage in the future would include management and administration; operation and maintenance of equipment, in-

¹ Pan American presently holds 100 percent of the common voting stock of Technical Services. In addition, there is a total of 10 shares of preferred stock of Technical Services issued and outstanding. These shares are held by individual Florida residents.

strumentation, and facilities; medical and environmental health services; food services; data collection; programming, computing, and processing services; meteorological services; laboratory and calibration services; motor pool, transportation and maintenance services; fire and security protection services; airport operations and maintenance and communications services; aerospace launch vehicle support services, including launch complex maintenance, propellant storage and handling, control and handling of radioisotope power supplies, command and control during countdown and powered flight, and related flight vehicle launch activities. It is also anticipated that the Engineering and Design Services Division of Technical Services would seek to provide the master planning system and subsystem design related to all of the activities which may be undertaken by Technical Services.²

Pan American believes that some of the services which Technical Services might undertake might be considered as engaging in a phase of aeronautics as that term is used in section 408 of the Act, and that this possibility creates a serious problem for Technical Services to be an effective bidder on contracts, particularly on government contracts. In this context, Pan American states that if Technical Services had to bid on government contracts subject to obtaining Board approval upon being the successful bidder, it would have a substantial, if not insurmountable, competitive disadvantage in relationship to other bidders; that such bidders would be in a position to claim that a necessity to obtain prior Board approval to carry out the contract makes Technical Services less than a fully qualified bidder and that from a practical viewpoint, it is doubtful that the government would award a contract to a bidder whose ability to perform required further approval by the Board, since in most cases the government expects contractors to commence performance as soon as the contract is awarded.

Pan American believes that from the Board's regulatory viewpoint, there would be little or no public interest in disapproving almost any of the types of contracts that Technical Services desires to bid on, even though such contracts might constitute engaging in a phase of aeronautics. To support this belief, the applicant notes that through its Aerospace Services Division, it has engaged in many of these same activities without the necessity of obtaining Board approval, and that it is only as a result of desiring to engage in these same activities through a corporate subsidiary that brings section 408 technically into play.³

Recognizing that the Board might have some reluctance to give blanket prior approval to engage in any phase of aeronautics that Technical Services might choose, Pan American expresses a willingness to accept

² Pan American states that management and administration; operation and maintenance of equipment, instrumentation, and facilities; motor pool, transportation and maintenance services; and communications services are all generic activities in which Technical Services may engage in the performance of its contracts. It points out, however, that none of these terms would involve acting as a common carrier or otherwise performing common carrier services in the transportation or communications fields.

³ Pan American states that it has determined that the subsidiary form of organization will enable it to perform these activities more economically and efficiently, and believes there is no public interest to be served in preventing Pan American from using this particular form of organization to carry out these activities.

approval or an exemption confined to the list of activities set forth above, subject to a condition that any contracts related to air carriers, such as the operation and maintenance of airports at which air carrier operations are conducted, which conceivably could raise public interest questions not involved in the great preponderance of activities that Technical Services would engage in, would be subject to prior Board approval.

No comments pertaining to the subject application have been received.

Upon consideration of the foregoing, it is found that Pan American is an air carrier and Technical Services is a person engaged in a phase of aeronautics, both within the meaning of section 408 of the Act. It is further found that the relationships should be approved to the extent necessary pursuant to section 408 of the Act. The acquisition does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. It is therefore found, subject to the conditions hereinafter discussed, that the relationships will not be inconsistent with the public interest and that the conditions of section 408 will not be otherwise unfulfilled.

The approval herein shall be granted subject to two conditions: (1) that Technical Services confine its activities to those set forth in paragraph 3, page 1, *supra*; and (2) that any contracts related to air carriers, such as the operation and maintenance of airports at which air carrier operations are conducted, be submitted for prior Board approval.² In addition, jurisdiction will be retained for the purpose of imposing such other and further conditions on the approval granted herein as the public interest may require.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13 and 385.3, it is found that the control relationship described herein should be approved pursuant to section 408(b) of the Act without a hearing, and that to the extent not specifically granted, the application herein should be dismissed.

Accordingly, it is ordered, That: 1. The control relationship described herein be and it hereby is approved pursuant to section 408 of the Act subject to the conditions that:

a. Technical Services shall confine its activities to those set forth in paragraph 3, page 1, *supra*; and

b. Any contracts entered into by Technical Services related to air carriers, such as the operation and maintenance of airports at which air carrier operations are conducted, shall be subject to prior Board approval.

2. Jurisdiction in this proceeding be and it hereby is retained for the purpose of imposing such other and further conditions as the Board may find to be required by the public interest.

3. Except to the extent granted herein, the application in docket 27664 be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become upon expiration of the above period unless

¹ Cf. United Air Lines, Inc., Interlocking Relationships, order E-13075, Oct. 16, 1958.

² Cf. Pan American, Farmingdale and Teterboro Airports, 49 C.A.B. 107 (1968).

within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] WILLIAM B. CALDWELL, JR.,
Director, Bureau of
Operating Rights.

[FR Doc. 75-11973 Filed 5-6-75; 8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

MAY 2, 1975.

On October 1, 1974, there was published in the FEDERAL REGISTER (39 FR 35410) a letter dated September 26, 1974 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period beginning on October 1, 1974. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 17 of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, which provides for the limited carryover of shortfalls in certain categories to the next agreement year.

Accordingly, at the request of the Government of the Republic of Korea and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of May 2, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to cotton textile products in Categories 7, 9/10, 18/19 and part of 26 (printcloth), 26 (duck), 31 (shop towels), 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only) for the twelve-month period which began on October 1, 1974.

ALAN POLANSKY,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assistance,
U.S. Department of Com-
merce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

MAY 2, 1975.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On September 26, 1974, the Chairman, Committee for the Implementation of Textile Agreements, directed

you to prohibit entry during the twelve-month period beginning October 1, 1974 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

Pursuant to paragraph 17 of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on May 8, 1975, the levels of restraint established in the aforesaid directive of September 26, 1974 for cotton textile products in the following categories for the twelve-month period which began on October 1, 1974:

Category	Amended 12-month level of restraint ²
7 -----square yards--	879,398
9/10 -----do-----	5,320,348
18/19/26 (printcloth only) ³ -----do-----	3,385,114
26 (duck fabric) ⁴ -----do-----	19,346,711
31 (only TSUSA No. 366.2740) -----pieces--	1,672,614
34/35 -----do-----	305,464
38 -----pounds--	203,150
39 -----dozen pairs--	194,741
45 -----dozen--	52,764
46/47 -----square yards--	1,961,427
48 -----dozen--	16,750
49 -----do-----	43,970
50 -----do-----	73,873
51 -----do-----	100,252
52 -----do-----	52,764
53 -----do-----	16,750
54 -----do-----	79,147
55 -----do-----	16,750
60 -----do-----	45,732
64 (only TSUSA Nos. 366.4600, 366.4730) -----pounds--	803,769
64 (only TSUSA No. 347.3340) -----do-----	98,492

² These levels have not been adjusted to reflect any entries made on and after October 1, 1974.

³ In Category 26, the T.S.U.A. Nos. for printcloth are:

320...34
321...34
322...34
326...34
327...34
328...34

⁴ The T.S.U.A. Nos. for duck fabric are:

320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Im-
plementation of Textile Agree-
ments, and Deputy Assistant Sec-
retary for Resources and Trade
Assistance, U.S. Department of
Commerce.

[FR Doc.75-11982 Filed 5-6-75; 8:45 am]

CIVIL SERVICE COMMISSION FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, June 4, 1975. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E. Street NW., and will consist of continued discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Manage-
ment Officer, for the Presi-
dent's Agent.

[FR Doc.75-11921 Filed 5-6-75; 8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION LIGNITE ADVISORY COMMITTEE MEETING

Meeting

The Energy Research and Development Administration's Lignite Advisory Committee will hold a meeting on May 16, 1975, at ERDA's Grand Forks Energy Research Center, 15 North 23rd Street, Grand Forks, North Dakota. The meeting will be open to the public and will begin at 9 a.m. and end at approximately 3:30 p.m.

The Committee will discuss the current program at the Grand Forks Center and the program planned for fiscal year 1976. Subjects to be covered include research programs in combustion, gasifi-

cation, liquefaction, drying, storage and a review of the Lignite Symposia.

Persons desiring information concern-
ing this meeting may contact: Gordon H.
Gronhoyd, Director, Grand Forks Energy
Research Center, phone (701) 775-4207.

HARRY L. PEEBLES,
Deputy Advisory Committee
Management Officer.

[FR Doc.75-12019 Filed 5-5-75; 10:48 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 368-5; OPP-32000/242]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environ-
mental Protection Agency (EPA) pub-
lished in the FEDERAL REGISTER (38 FR
31862) its interim policy with respect to
the administration of section 3(c)(1)(D)
of the Federal Insecticide, Fungicide, and
Rodenticide Act (FIFRA), as amended.
This policy provides that EPA will, upon
receipt of every application for registra-
tion, publish in the FEDERAL REGISTER a
notice containing the information shown
below. The labeling furnished by the ap-
plicant will be available for examination
at the Environmental Protection Agency,
Room EB-31, East Tower, 401 M Street,
SW, Washington DC 20460.

On or before July 7, 1975, any person
who (a) is or has been an applicant, (b)
believes that data he developed and sub-
mitted to EPA on or after October 21,
1972, is being used to support an appli-
cation described in this notice, (c) de-
sires to assert a claim for compensation
under section 3(c)(1)(D) for such use
of his data, and (d) wishes to preserve
his right to have the Administrator de-
termine the amount of reasonable com-
pensation to which he is entitled for such
use of the data, must notify the Adminis-
trator and the applicant named in the
notice in the FEDERAL REGISTER of his
claim by certified mail. Notification to
the Administrator should be addressed to
the Information Coordination Section,
Technical Services Division (WH-569),
Office of Pesticide Programs, 401 M
Street, SW, Washington DC 20460. Every
such claimant must include, at a mini-
mum, the information listed in the in-
terim policy of November 19, 1973.

Applications submitted under 2(a) or
2(b) of the interim policy will be pro-
cessed to completion in accordance with
existing procedures. Applications sub-
mitted under 2(c) of the interim policy
cannot be made final until the 60 day
period has expired. If no claims are re-
ceived within the 60 day period, the 2(c)
application will be processed according
to normal procedure. However, if claims
are received within the 60 day period,
the applicants against whom the claims
are asserted will be advised of the alter-
natives available under the Act. No claims
will be accepted for possible EPA adjudi-

cation which are received after July 7,
1975.

Dated: April 25, 1975.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-32000/242)

EPA File Symbol 2749-URU. Aceto Chemical
Co., Inc., Agricultural Chemical Div., 126-02
Northern Blvd., Flushing NY 11368. SIDU-
RON WEED KILLER. Active Ingredients:
Siduron (1-(2-methylcyclohexyl)-3-phen-
ylurea) 50%. Method of Support: Applica-
tion proceeds under 2(c) of interim policy.
PM25.

EPA File Symbol 36118-R. Amchlor Corp.,
Pool Chemical Div. of Amato Solvents, Inc.,
9120 Talbot Ave., Silver Spring MD 20910.
AMCIDE. Active Ingredients: N-alkyl (80%
C14, 30% C16, 5% C12, 5% C18) dimethyl
benzyl ammonium chloride 8.40%; N-di-
alkyl (60% C14, 30% C16, 5% C12, 5% C18)
methyl benzyl ammonium chloride 1.60%.
Method of Support: Application proceeds
under 2(c) of interim policy. PM24.

EPA File Symbol 14451-R. Antiseptol Chemi-
cal Corp., 141 Central Ave., Farmingdale,
NY 11735. ANTISEPTOL G C. Active Ingre-
dients: Didecyl dimethyl ammonium chlo-
ride 4.5%; Tetrasodium ethylenediamine
tetraacetate 2.0%; Sodium carbonate
1.0%; Sodium metasilicate, anhydrous
0.5%. Method of Support: Application pro-
ceeds under 2(b) of interim policy. PM31.

EPA File Symbol 36423-R. Carroll Ltd., Inc.,
2656 Salmon St., Philadelphia PA 19125.
CARROLL WOOD VAC. Active Ingredients:
Pentachlorophenol 5%. Method of Support:
Application proceeds under 2(c) of interim
policy. PM22.

EPA File Symbol 7273-RLN. Crown Chemi-
cals, 4995 North Main St., Rockford IL
61101. CROWN "FAST-KILL" SPACE & CON-
TACT SPRAY FOR ANTS & ROACHES. Active
Ingredients: Pyrethrins 0.62%; Piper-
onyl butoxide (Equivalent to 2.5% (butyl-
carbityl) (6-propylpiperonyl) ether and
0.62% other related compounds) 3.12%;
Petroleum distillates 96.26%. Method of
Support: Application proceeds under 2(c)
of interim policy. PM17.

EPA File Symbol 9143-LI. Chemscope Corp.,
1909 Hi-Line Dr., PO Box 10752, Dallas TX
75207. AIRCRAFT IN-SECTICIDE 600. Active
Ingredients: Pyrethrins 0.60%; Piper-
onyl butoxide, technical (Equivalent to
1.12% (butylcarbityl) (6-piperonyl) ether
and 0.28% related compounds) 1.40%; Pe-
troleum distillate 13.00%. Method of Sup-
port: Application proceeds under 2(c) of
interim policy. PM17.

EPA File Symbol 334-GOR. Hysan Corp., 919
W. 38th St., Chicago IL 60609. HYCLEAN
GERMICIDAL LIQUID DETERGENT. Active
Ingredients: Potassium Soap 16.00%;
4 and 6-chloro-2-phenylphenol 2.70%;
Ortho-Benzyl-Para-Chlorophenol 2.60%;
Isopropyl Alcohol 0.95%; Tetra-Sodium
Salt of Ethylene Diamine Tetraacetic Acid
1.30%; Essential Oils 0.25%. Method of
Support: Application proceeds under 2(c)
of interim policy. PM32.

EPA Reg. No. 1471-35. Elanco Products Co.,
A Div. of Eli Lilly and Co., PO Box 1750,
Indianapolis IN 46206. ELANCO TREPLAN
E.C. Active Ingredients: Trifluralin (a,a,a-
trifluoro-2,6-dinitro-N,N-dipropyl-p-tolui-
dine) 44.5%. Method of Support: Applica-
tion proceeds under 2(c) of interim policy.
Republished: Additional use, PM23.

EPA Reg. No. 1471-35. Elanco Products Co., A Div. of Eli Lilly and Co., PO Box 1750, Indianapolis IN 46206. ELANCO TREFLAN E.C. Active Ingredients: Trifluarlin (a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) 44.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use. PM23.

EPA Reg. No. 10659-4. Occidental Chem. Co., Div. of Occidental Petroleum Corp., PO Box 1185, Houston TX 77001. OXY LEAFEX-3. Active Ingredients: Sodium Chlorate 28%. Method of Support: Application proceeds under 2(c) of interim policy. PM26.

EPA Reg. No. 33955-394. Acme Div. FBI-Gordon Corporation, 300 S. Third St., Kansas City KS 66118. ACME MALATHION 50% SPRAY FOR FLIES AND GARDEN INSECTS. Active Ingredients: Malathion (O,O-Dimethyl dithiophosphate of diethyl mercaptosuccinate) 50.00%; Xylene 38.51%. Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 24053-0. Peterson Exterminating Co., 559 East 63rd St., Chicago IL 60637. P.D.Q. DIAZINON E-4. Active Ingredients: 0, 0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 47.5%; Aromatic petroleum derivative solvent 30.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 655-GGE. Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York NY 10001. PRENTOX PYRONYL POULTRY HOUSE & BARN ULV FLY SPRAY. Active Ingredients: Pyrethrins 2.00%; Piperonyl Butoxide, Technical (Equivalent to 3.20% (Butylcarbityl) (6-propylpiperonyl) ether and 0.80% related compounds) 4.00%; N-octyl bicycloheptene dicarboximide 6.66%; Petroleum Distillates 87.34%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA Reg. No. 148-1052. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. TERRACLO 2 LB. EMULSIFIABLE CONCENTRATE. Active Ingredients: Pentachloronitrobenzene 24.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use. PM21.

[FR Doc.75-11769 Filed 5-6-75;8:45 am]

[FRL 368-6, OPP-32000/243]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before July 7, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and

submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 7, 1975.

Dated: April 25, 1975.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-32000/243)

EPA File Symbol 4169-RR. Aborn Chem. Industries, Inc., (Wholly owned Subsidiary of M. D. Stetson Co.), 169 "A" St., S. Boston MA 02210. ARK INDUSTRIAL SPRAY. Active Ingredients: Pyrethrins 1.0%; Piperonyl Butoxide, Technical (Equivalent to 8.0% of (butylcarbityl) (6-propylpiperonyl) ether and to 9.0% of related compounds) 10.0%; Petroleum Distillate 79.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA Reg. No. 8590-39. Agway Inc. Fertilizer-Chemical Div., PO Box 1333, Syracuse NY 13201. WEEDKILLER "66". Active Ingredients: Triethanolamine salt of 2,4-dichlorophenoxyacetic acid 64.7%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use on apples. PM23.

EPA File Symbol 10069-LI. Athes Labs., Inc., 4180 N. 1st St., Milwaukee WI 53212. EMULSIFIABLE INSECTICIDE CONCENTRATE MB. Active Ingredients: Malathion (0, 0-Dimethyl dithiophosphate of Dimethylmercaptosuccinate) 57%; Methylated Naphthalenes 34%. Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 10882-RE. Chem-Power, Hanover Industrial Pk., Cedar Knolls NJ 07927. ROUTE INSECTICIDE. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide, technical (Equivalent to 0.8% (butylcarbityl) (6-propylpiperonyl) ether and to 0.2% related compounds) 1.0%; Petroleum distillate 0.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 10882-RG. Chem-Power. WASP & HORNET SPRAY. Active Ingredients: Pyrethrins 0.075%; Piperonyl Butoxide, Technical (Equivalent to 0.150% of (butylcarbityl) (6-propylpiperonyl) ether and 0.038% of related compounds) 0.188%; Carbaryl (1-Naphthyl N-Methylcarbamate) 0.500%; Petroleum Distillate 24.237%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 10882-RN. Chem-Power. CHEM CIDE INSECT SPRAY. Active Ingredients: Tetramethrin (1-Cyclohexene-1,2-dicarboximidomethyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate) 0.250%; related compounds 0.034%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; related compounds 0.034%; Petroleum Distillate 8.800%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 10882-RR. Chem-Power. COMBAT FOG SPRAY. Active Ingredients: Pyrethrins 0.3%; Piperonyl Butoxide, Technical (Equivalent to 2.4% of (butylcarbityl) (6-propylpiperonyl) ether and 0.6% of related compounds) 3.0%; Petroleum Distillate 96.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 11556-LE. Cutter Animal Health Labs., Div. of Bayvet Corp., PO Box 390, Shawnee Mission KS 66201. ANTHON PAST. Active Ingredients: Trichlorfon (2,2,2-trichloro-1-hydroxyethyl) phosphonate 40%. Method of Support: Application proceeds under 2(a) of interim policy. PM15.

EPA File Symbol 2337-IU. DeMert & Dougherty, Inc., 5000 W. 41st St., Box 112 (Cicero Br.), Chicago IL 60650. DEMERT FLEA SPRAY FOR DOGS & CATS. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 8.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 5174-ER. De Vere Chem. Co., Inc., PO Box 804, Janesville WI 53545. DE VERE NOX. Pyrethrins 0.20%; Piperonyl butoxide, technical (Equivalent to 0.80% (butylcarbityl) (6-propylpiperonyl) ether and 0.20% related compounds) 1.00%; Petroleum distillate 18.80%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 334-GOA. Hysan Corp., 919 W. 39th St., Chicago IL 60609. P-150 INSECTICIDE. Active Ingredients: Petroleum Distillate 18.1%; N-Octyl Bicycloheptene Dicarboximide 1.0%; Technical Piperonyl Butoxide (Consists of 0.48 (butylcarbityl) (6-propylpiperonyl) ether and 0.12 related compounds) 0.6%; Pyrethrins 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 2342-OAG. Kerr-McGee Chem. Corp., Kerr-McGee Center, Oklahoma City OK 73125. GRO-TONE CHINCH BUG AND WORM SPRAY. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphate] 11.2%; Aromatic Petroleum Derivative Solvents 67.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 9592-A. L. E. MacNair Chem. Co., PO Box 702, Houlton ME 04730. SPRAY MIST BLUEBERRY DUST 5% SEVIN DUST. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 9502-L. L. E. MacNair Chem. Co., PO Box 702, Houlton ME 04730. SPRAY MIST BLUEBERRY DUST 3% DIAZINON DUST. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 3%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 7001-ERL. Occidental Chem. Co., PO Box 198, Lathrop CA 95330. SEVIN 7.5 DUST. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 7.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 3339-RT. Parke-Hill Chem. Corp., 29 Bertel Ave., Mount Vernon NY 10550. POOL-KLEER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 6651-EL. Sonford Products Corp., Southern Div., PO Box 5570, Jackson MI 39208. STA-BRITE LIQUID. Active Ingredients: 2-(thiocyanomethylthio) benzo-thiazole 15.0%; Pentachlorophenol 8.8%; 2,3,4,6-Tetrachlorophenol 1.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM23.

EPA File Symbol 6720-ELE. Southern Mill Creek Products Co., Inc., PO Box 1096, Tampa FL 33601. SMCP VAPONA INSECTICIDE 50% CONCENTRATE SOLUTION. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 46.5%; Related Compounds 3.5%; Aromatic Petroleum Derivative Solvent 50.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM13.

EPA File Symbol 6720-ELR. Southern Mill Creek Products Co., Inc., PO Box 1096, Tampa FL 33601. SMCP LAWN & PERIMETER GRANULES. Active Ingredients: Chlorpyrifos (0,0-diethyl-0-(3,5,6-Trichloro-2-pyridyl) phosphorothioate 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

[FR Doc.75-11708 Filed 5-6-75;8:45 am]

FEDERAL MARITIME COMMISSION

ASSOCIATED NORTH ATLANTIC FREIGHT CONFERENCES

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination

or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire
Suite 727
17 Battery Place
New York, New York 10004

Agreement No. 9978-6, among the member conferences of the above-named Association, is a request for Commission authorization to provide cargo inspection services for the North Atlantic Mediterranean Freight Conference, a nonmember conference.

Dated: May 2, 1975.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11983 Filed 5-6-75;8:45 am]

ASSOCIATED NORTH ATLANTIC FREIGHT CONFERENCES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire
Suite 727
17 Battery Place
New York, New York 10004

Agreement No. 9978-5, among the member conferences of the above-named Association is a request for Commission authorization to provide self-policing services for the Iberian/U.S. North Atlantic Westbound Freight Conference, a nonmember conference.

Dated: May 2, 1975.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11984 Filed 5-6-75;8:45 am]

NIPPON YUSEN KAISHA AND MATSON AGENCIES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 27, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel
Matson Navigation Company
100 Mission Street
San Francisco, California 94105

Agreement No. 10053-1, an agency arrangement between Nippon Yusen Kaisha and Matson Agencies, Inc. modifies Article 1 of the basic agreement by expanding its geographic area to include the States of Montana, Wyoming and Idaho. Accordingly, the first sentence of Article 1 shall read as follows:

The Company hereby appoints the Agents to be its exclusive agents for liner and

tramp services in California, Oregon, Washington, Alaska, Hawaii, Nevada, Utah, Arizona, Colorado, New Mexico, Montana, Wyoming and Idaho (hereinafter referred to as "the Area"); and the Agents accept such appointment on the terms and conditions set out in this Agreement and the Addenda thereto.

Dated: May 2, 1975.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11986 Filed 5-6-75; 8:45 am]

[Docket No. 75-14]

PACIFIC FAR EAST LINE INC.

Order of Investigation and Hearing

In the matter of Pacific Far East Line, Inc., possible violations of section 18(b) (5) of the Shipping Act, 1916 in connection with rates on military cargo.

Pacific Far East Line, Inc., (PFEL) is a common carrier by water operating inter alia between the West Coast of the United States and Hong Kong, Taiwan and Japan. PFEL submits bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by the Military Sealift Command (MSC).

In response to the latest Request For Proposal (RFP) 900, Second Cycle, issued by the MSC, PFEL's container Cargo N.O.S. rate bid for Route Index 01 Zone A-4, U.S. West Coast to Hong Kong and Taiwan, was \$26.60 per measurement ton and its container Cargo N.O.S. rate bid for Route Index 01 Zone E, U.S. West Coast to Japan, was \$29.20 per measurement ton.

PFEL's \$26.60 MT bid from the U.S. West Coast to Hong Kong and Taiwan is significantly lower than any of its competitors on the same zone and it is the lowest of all the West Coast to Far East Area rates for the current RFP Cycle. It is also lower than PFEL's other rates for Cargo N.O.S. going much shorter distances on the same voyages. PFEL's \$29.20 MT bid from the U.S. West Coast to Japan is the lowest rate on this significant, competitive trade route.

On January 31, 1975 the Commission issued a section 21 Order directed to PFEL in order to obtain the necessary data to review the above bids. PFEL's response was based on estimated costs and did not include enough detail to adequately judge the reasonableness of the rates. A more detailed section 21 Order was issued by the Commission on April 9, 1975 in order to obtain more reliable data and to expedite a review of the rates prior to their expiration on June 30, 1975.

The Commission has for some time been seriously concerned with the apparent precariously low level of rates on military cargo bid pursuant to the MSC procurement system. Section 18(b) (5) of the Shipping Act, 1916 (46 U.S.C. 817(b)) authorizes the Commission to disapprove any rate or charge which it finds to be so unreasonably high or low as to be

detrimental to the commerce of the United States. Because of our concern and responsibility in this regard the Commission established by rulemaking a minimum standard in order to determine whether military rates meet the requirements of section 18(b) (5) of the Act (General Order 29, 46 CFR Part 549).

As the Commission stated in connection with the promulgation of General Order 29, rates on military cargo may fall to such a low level that either the continuation of adequate service is jeopardized or upward pressure is exerted on rates paid by commercial shippers. Both of these contingencies, we believe, result in a situation which is detrimental to the commerce of the United States.

Comparing the bids presently submitted with those submitted under the previous RFP Cycle, those submitted by other carriers, the information furnished in response to the Commission's section 21 Orders, and considering the rising costs of operation in the industry, the Commission is of the opinion that the reasonableness of the present level of bids submitted by the subject carrier pursuant to RFP 900, Second Cycle, is in serious doubt. Therefore, the Commission is of the opinion that an investigation should be undertaken in order to determine whether such bid rates are in fact so unreasonably low as to be detrimental to the commerce of the United States, hence warranting disapproval by the Commission.

Now, therefore, it is ordered, That pursuant to section 22 of the Shipping Act, 1916, as amended, an investigation and hearing is hereby instituted to determine the lawfulness of PFEL's RFP-900 Second Cycle bid rates for carriage of Cargo N.O.S., on MSC's Route Index 01 Zones A-4 and E under section 18(b) (5) of the Act; and

It is further ordered, That Pacific Far East Lines, Inc., be made respondent in this proceeding; and

It is further ordered, That this proceeding be referred for public hearing and decision before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined and announced by the presiding administrative law judge on or before November 1, 1975; and

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon the respondent; and

It is further ordered, That any person other than respondent and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

Pursuant to these rules, absent good cause shown, parties must commence discovery procedures on or before June 6, 1975. Moreover any intervenor desiring to utilize the discovery procedures provided for in Subpart L thereof must commence doing so no later than 15 days

after his petition for leave to intervene has been granted. If the petition for leave to intervene is filed later than June 6, 1975, petitioner will be deemed to have waived his right to utilize such procedures unless good cause is shown for the failure to file the petition within the 30-day period. (46 CFR 502.72(b)); and

Finally, it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11987 Filed 5-6-75; 8:45 am]

UNITED STATES FLAG-FAR EAST DISCUSSION AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814). Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 27, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. A. Velez
Vice President Corporate Pricing
United States Lines, Inc.
One Broadway
New York, New York 10004

Agreement No. 10050-1 would extend the term of the United States Flag-Far East Discussion Agreement for an additional two years from July 18, 1975 when, by the present terms of the basic agreement, it is scheduled to expire.

By order of the Federal Maritime Commission.

Dated: May 2, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 75-11985 Filed 5-6-75; 8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE AND ENVIRONMENTAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Architecture and Environmental Arts Advisory Panel to the National Council on the Arts will be held on May 22, 23, 1975 from 10 a.m.-5 p.m. at the Carnahan House, University of Kentucky, Lexington, Kentucky.

This meeting is for the purpose of a long-range policy discussion and planning review of the Architecture and Environmental Arts Program by the Panel. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National
Endowment for the Arts, National
Foundation on the Arts
and the Humanities.

[FR Doc. 75-11926 Filed 5-6-75; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CS75-389, etc.]

"SMALL PRODUCER" CERTIFICATES¹ Applications

APRIL 25, 1975.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1975, file with the Federal Power Commission.

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

mission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS75-389	Mar. 31, 1975	Arden F. Blair, 3014 Rugby Dr., Billings, Mont. 59102.
CS75-390	do	Fuel Resources Development Co., 550 15th St., Denver, Colo. 80202.
CS75-391	Apr. 2, 1975	EL RAN, Inc., 1603 Broadway, Lubbock, Tex. 79401.
CS75-392	Apr. 3, 1975	Seath Petroleum, Inc., P.O. Box 520, Perryton, Tex. 79070.
CS75-393	Apr. 4, 1975	Esco, Inc., P.O. Box 84, Penrose, Colo. 81240.
CS75-394	do	Vernon Estes, P.O. Box 84, Penrose, Colo. 81240.
CS75-395	do	W. W. Ranek, 1603 Broadway, Lubbock, Tex. 79401.
CS75-396	do	Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS75-397	Apr. 7, 1975	John H. Volosin, P.O. Box 783, Great Bend, Kans. 67530.
CS75-398	do	Robert D. Dougherty, P.O. Box 1065, Great Bend, Kans. 67530.
CS75-399	do	Brounger Oil, Inc., et al., P.O. Drawer 1207, Great Bend, Kans. 67530.
CS75-400	do	Ruth G. Hardman, 310 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.
CS75-401	do	John A. Dean, 1111 East Ute, Farmington, N. Mex. 87401.
CS75-402	do	Cambris Corp., P.O. Box 1065, Great Bend, Kans. 67530.
CS75-403	do	Wesco Energy, Inc., 300 North Broadway, Moore, Okla. 73160.
CS75-404	do	Estil Hill, Route No. 2, Sandyville, W. Va. 25275.
CS75-405	do	Mrs. Julia B. Lilly, Pompton Dr., Austin, 77588 A199-0 Tex

Docket No.	Date filed	Applicant
CS75-406	do	Tri-Star Petroleum Corp., 6801 South Western, Suite 107, Oklahoma City, Okla. 73159.
CS75-407	do	Charles F. Sarraff, 6801 South Western, Suite 107, Oklahoma City, Okla. 73159.
CS75-408	Apr. 8, 1975	J. Mark Richardson, 300 O. W. Gurvey Bldg., Wichita, Kans. 67202.
CS75-409	Apr. 9, 1975	F. G. Holl, 6427 East Kellogg, Wichita, Kans. 67207.
CS75-410	do	Tideway Oil Programs, Inc., P.O. Box 92, Suite 203, Ergon Bldg., Jackson, Miss. 39205.
CS75-411	do	Pat Sims, Box 1046, Eunice, N. Mex. 88331.
CS75-412	Apr. 10, 1975	Tom Kennam, Box 202, Eunice, N. Mex. 88331.
CS75-413	do	Daico Exploration, Inc., 3,000 Center, Suite 342, 303 East Skelly Dr., Tulsa Okla. 74105.
CS75-414	Apr. 11, 1975	James D. Howell, Jr., for "Greene Class of 22", 5730 West 94th St., Overland Park, Kans. 66207.
CS75-415	do	William E. and Audrey Moore, et al., 1280 Estrella Dr., Santa Barbara, Calif. 93110.
CS75-416	Apr. 14, 1975	Columbia Petroleum Corp., 1204 Beck Bldg., Shreveport, La. 71101.
CS75-417	do	Nellie Marceaux Pierce, c/o P.O. Drawer 278, Kaplan, La. 70548.
CS75-418	do	O. H. Deshotel, Jr., P.O. Drawer 278, Kaplan, La. 70548.
CS75-419	do	Casey Pierce, 210 Eleanor Ave., Abbeville, La. 70516.
CS75-420	do	J. B. J. B. Investment Group, c/o Gerald H. Cohl, C.P.A., 16450 Ludlow St., Granada Hills, Calif. 91344.
CS75-421	do	Ray O. Brownie, 1600 Lincoln St., Suite 1430, Denver, Colo. 80203.

[FR Doc. 75-11756 Filed 5-6-75; 8:45 am]

[Docket No. CS75-422, etc.]

"SMALL PRODUCER" CERTIFICATES¹ Applications

APRIL 28, 1975.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

ceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date Filed	Applicant
CS75-422	Apr. 14, 1975	James B. Wallace, 1660 Lincoln St., Suite 1420, Denver, Colo. 80203.
CS75-423	do	Jerry D. Armstrong, 1660 Lincoln St., Suite 1420, Denver, Colo. 80203.
CS75-424	do	Harold Kogan and Matilda Kogan, 712 35th Ave., San Francisco, Calif. 94121.
CS75-425	do	Dellcon Oil Corp., 1401 Bank of Delaware Bldg., 300 Delaware Ave., Wilmington, Del. 19801.
CS75-426	do	Marjorie Robinson, d.b.a. Winona Oil and Gas Co., 1005 Vickers-KSB & T Bldg., Wichita, Kans. 67202.
CS75-427	Apr. 15, 1975	Ecological Engineering Systems, Inc., 3905 West Monmouth, Littleton, Colo. 80123.
CS75-428	Apr. 16, 1975	Malette Martin, d.b.a. Martin Oil & Gas Co., 4705 North 32d Pl., Phoenix, Ariz. 85018.
CS75-429	do	Colorado Energy Corp., 1844 Valley View Rd., Boulder, Colo. 80301.
CS75-430	do	Martin Oil Service, Inc., 4501 West 127th St., Alsip, Ill. 60638.
CS75-431	do	Rhonda Operating Co., Suite 140, Central Bldg., Midland, Tex. 79701.
CS75-432	Apr. 17, 1975	Majir Oil Co., Inc., P.O. Box 2325, Ponca City, Okla. 74601.
CS75-433	Apr. 21, 1975	Enterprise Gas Co., 1100 Milam, Suite 2000, Houston, Tex. 77002.
CS75-434	do	Astro Well Servicing, Inc., 6801 South Western, Suite 107, Oklahoma City, Okla. 73139.
CS75-435	do	Frank W. Winegar, Petroleum Club Bldg., 110 16th St., Denver, Colo. 80202.
CS75-436	do	Hunt Oil & Gas Corp., 6400 North Brookline, Suite 200, Oklahoma City, Okla. 73112.
CS75-437	do	Johnston Petroleum Corp., U.S. Highway 40 W., Cambridge, Ohio 43725.

[FR Doc.75-11759 Filed 5-6-75;8:45 am]

FEDERAL RESERVE SYSTEM MANUFACTURERS NATIONAL CORP.

Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of Bay City Bank & Trust Company, Bay City, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 3, 1975.

Board of Governors of the Federal Reserve System, April 30, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.
[FR Doc.75-11940 Filed 5-6-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGION 3 PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

APRIL 30, 1975.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, May 21, 1975, from 10:30 a.m. to 3 p.m., Room 3341, General Services Administration, 18th and F Streets, NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Safe Work Study, Washington, D.C., and for the proposed Geological Design and Construction Aspects Associated with Building Substructures, Washington, D.C. Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

T. L. PEYTON, Jr.,
Acting Commissioner,
Public Buildings Service.

[FR Doc.75-11883 Filed 5-6-75;8:45 am]

[TEMPORARY REGULATION F-337]

SECRETARY OF DEFENSE

Delegation of Authority

1. Purpose. This regulation delegates authority to the Secretary of Defense to

represent the consumer interests of the executive agencies of the Federal Government in a gas rate and curtailment investigation.

2. Effective date. This regulation is effective immediately.

3. Delegation. a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission (Case No. 9884) in a gas rate and curtailment investigation involving gas distribution in California.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: April 28, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-11927 Filed 5-6-75;8:45 am]

ADVISORY COMMITTEE FOR PROTECTION OF ARCHIVES AND RECORDS CENTERS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, P.L. 92-463, notice is hereby given that meetings of the Advisory Committee for Protection of Archives and Records Centers will be held at 9:00 a.m. on May 22-23, 1975, in the Departmental Auditorium, Conference Room B, 14th & Constitution Avenue, NW., Washington, D.C.

The meeting will be devoted to initial preparation of the formal report of the committee.

Individuals wishing to offer testimony are requested to submit, in advance, to the Advisory Committee Secretary, a one-page outline of their testimony, and to limit their oral remarks to fifteen minutes. Written statements of any length will be accepted.

Further information with reference to these meetings can be obtained from Mr. D. Peter Lund, Advisory Committee Secretary, c/o Society of Fire Protection Engineers, 60 Batterymarch Street, Boston, MA 02110, or call (617) 482-0686.

Dated: April 29, 1975.

WALTER A. MEISEN,
Acting Commissioner,
Public Buildings Service.

[FR Doc.75-12196 Filed 5-6-75;10:08 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

JOSEPH BROS. COAL CO.

Applications for Renewal Permits, Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4143-000, JOSEPH BROS. COAL COMPANY, Mine No. 14, Mine ID No. 15 02789 0, Premium, Kentucky,
ICP Permit No. 4143-001-R-3 (S & S 80 Battery Motor, Ser. No. 02765-65B),
ICP Permit No. 4143-002-R-3 (Stacy's 16 Spinner Loader, Ser. No. 116),
ICP Permit No. 4143-003-R-3 (Porter Wagon Drill, Ser. No. 222).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MAY 1, 1975.

[FR Doc.75-11892 Filed 5-6-75; 8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON COMBUSTION ENGINEERING SYSTEM 80

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Combustion Engineering System 80 will hold a meeting on May 23, 1975 in Room 1046 at 1717 H. Street, NW., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of Combustion Engineering, Inc., for a Reference System Standard Project Review.

The agenda for the subject meeting shall be as follows:

Friday, May 23, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and Combustion Engineering, Inc., and will hold discussions with these groups pertinent to its review of the applica-

tion of Combustion Engineering, Inc., for a Reference System Standard Project Review.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations; the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than May 14, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. Such comments shall be based upon the Preliminary Safety Analysis Report for this project and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests

shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 9:30 a.m. and 10:30 a.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on May 22, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1393, G. Quittschreiber) between 8:15 a.m. and 5:00 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20555, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after May 26, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 after August 23, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: May 1, 1975.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.75-11884 Filed 5-6-75; 8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.**Proposed Issuance of Amendment to Facility Operating License**

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company (the licensee) for operation of the Maine Yankee Atomic Power Station (the facility), a pressurized-water reactor located in Lincoln County, Maine, and currently authorized for operation at power levels up to 2440 MWt.

In accordance with the licensee's application for a license amendment dated March 27, 1975, and supplemented April 28, 1975, the amendment would modify operating limits in the Technical Specifications based upon an evaluation of ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10 CFR 50.46. The amendment would modify various limits established in accordance with the Commission's Interim Acceptance Criteria, and would, with respect to the Maine Yankee Atomic Power Station, terminate the further restrictions imposed by the Commission's December 27, 1974 Order for Modification of License, and would impose instead, limitations established in accordance with the Commission's Acceptance Criteria for Emergency Core Cooling Systems for Light Water Nuclear Power Reactors, 10 CFR 50.46.

The amendment also allows for fully reloading the reactor core with prepressurized, high density fuel and provides operating limits in the Technical Specifications based on use of the new fuel.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 6, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to John A. Ritscher, Esquire, and Thomas G. Dignan, Jr., Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see (1) the application for amendment dated March 27, 1975, (2) Supplement No. 1 to the application dated April 28, 1975, and (3) the Commission's Order for Modification of License and the documents referred to in the Order dated December 27, 1974 (published in the FEDERAL REGISTER on January 9, 1975 [40 FR 17651]), which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 6th day of May 1975.

For the Nuclear Regulatory Commission,

ROBERT A. PURPLE,
Chief, Operating Reactors
Branch #1, Division of Reactor Licensing.

[FR Doc.75-12227 Filed 5-6-75; 11:27 am]

OFFICE OF MANAGEMENT AND BUDGET**CLEARANCE OF REPORTS****List of Requests**

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 05/02/75 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS**NATIONAL SCIENCE FOUNDATION**

Survey of Calculators, single-time, individuals, Planchon, P., 395-3898.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Evaluation of Comprehensive Nutrition Education Program for Students K-12, single-time, students, teachers, food service personnel, parents, Sunderhauf, M. B., 395-4911.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Terms of agreement—guaranteed student loan program, OE-413, other (see SF-83), institutions of higher education, Caywood, D. P., 395-3443.

Alcohol, Drug Abuse and Mental Health Administration, universe component of drug abuse prevention resource units (DAPRU), NIDA 0418, semiannually, drug abuse prevention resource units, human resources division, Reese, B. P., 395-3532.

REVISIONS**DEPARTMENT OF AGRICULTURE**

Forest Service, trail registration card, on occasion, parties of individuals entering selected forest areas, Caywood, D. P., 395-3443.

Statistical reporting service, March acreage survey, annually, farmers, Lowry, R. L., 395-3772.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc.75-12082 Filed 5-6-75; 8:45 am]

PENSION BENEFIT GUARANTY CORPORATION**ANTHRACITE HEALTH AND WELFARE FUND****Rescheduling of Hearing**

Notice is hereby given that the hearing in the above matter originally scheduled

for April 14, 1975 in 40 FR 12336 (March 18, 1975) which was postponed in 40 FR 16155 (April 9, 1975) will take place on May 21, 1975 at 9 a.m. in the Interdepartmental Auditorium, Conference Room A, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

The purpose of the hearing is to allow interested persons to present their views and comments on the issues raised by the application of the Anthracite Health and Welfare Fund, a multiemployer pension plan, for benefits under section 4082(c) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1381(c), as more fully explained in the original notice of March 18, 1975, *supra*.

A copy of the application and supporting documents will be available for inspection and copying between the hours of 8:15 a.m. and 4:45 p.m. at the Corporation's Offices located at 8701 Georgia Avenue, Silver Spring, Maryland, in Room 708.

Comments should be addressed to the Acting Executive Director, Pension Benefit Guaranty Corporation, P.O. Box 7119, Washington, D.C. 20044, mailed in an envelope marked "Anthracite Fund" in the lower left-hand corner and postmarked no later than midnight May 16, 1975. Three copies of any written comments should be submitted on 8 1/2" x 11" paper, double-spaced, containing no more than 50 pages, including tables and appendices.

Interested persons who wish to present their views orally at the hearing must notify the Acting Executive Director at the above address by a letter postmarked not later than midnight May 13, 1975. The letter must identify the person or persons, labor organization, employer, or association wishing to be heard, should give the name and address of the representative who will appear, and the amount of time requested.

The Corporation will adopt a schedule of the order of presentation, and limit the duration of all presentations if the number of requests necessitates such action. Additional comments in response to the views expressed at the hearing and contained in the written submissions may be filed with the Corporation provided that those comments are mailed in an envelope postmarked no later than May 30, 1975.

Issued at Silver Spring, Maryland on May 5, 1975.

PENSION BENEFIT GUARANTY
CORPORATION,
STEVEN E. SCHANES,
Acting Executive Director.

[FR Doc.75-12174 Filed 5-6-75;8:56 am]

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS CLOSED MEETING

Pursuant to section 10 (a) (2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Final Selection Meeting for the President's

Commission on White House Fellowships will be held at 10:45 a.m. until 7 p.m. on May 16-18, 1975, at Airlie House in Warrenton, Virginia.

The Final Selection Meeting is part of the screening process of the White House Fellowship program. During this three-day meeting the thirty-two White House Fellow National Finalists will be interviewed by the members of the Presidential Commission. At the conclusion of this meeting, the Commission recommends to the President fifteen to twenty of these National Finalists to serve as White House Fellows. On May 19, 1975, the President will announce the 1975-76 class of White House Fellows.

It has been determined by the Chairman of the Civil Service Commission that due to the very nature of the screening process where personnel records and confidential character references must be used which, if revealed to the public, would constitute a clear invasion of an applicant's privacy, the content of these meetings falls within the provisions of section 552(b) (6) of title 5 of the United States Code and that these meetings will be closed to the public.

BRUCE H. HASENKAMP,
Director.

DETERMINATION TO CLOSE A MEETING OF THE PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS TO THE PUBLIC

Subsections (a) (1) and (a) (3) of section 10 of the Federal Advisory Committee Act, Pub. L. 92-463, require that each advisory committee meeting be open to the public and that minutes and other papers which are made available to or prepared for or by an advisory committee are to be available for public inspection and copying. However, subsection (d) of section 10 provides that these requirements shall not apply to any advisory committee meeting that is determined to be concerned with matters listed in section 552(b) of title 5, United States Code.

The meetings have been closed in previous years because of the use of confidential files and character references which we believe are personnel files exempt from disclosure under 5 USC 552(b) (6).

Also, it has been noted by the Office of Legal Counsel, Department of Justice, that due to the nature of the Commission, its meetings may ordinarily fall within 5 USC 552(b) (6).

Therefore, it is hereby determined that the meetings of the President's Commission on White House Fellowships consist of exchanges of opinions which, if written, would fall within exemption (6) of section 552(b) of title 5, United States Code, and would constitute a clearly unwarranted invasion of personal privacy. Accordingly, those portions of the meeting dealing with confidential files and character references, to be held May 16-18, 1975, shall be closed to the public and the minutes and other papers of the President's Commission on White House Fellowships pertaining to those portions shall not be available for public inspection or copying.

ROBERT E. HAMPTON,
Chairman,
U.S. Civil Service Commission.

[FR Doc.75-11923 Filed 5-6-75;8:45 am]

RENEGOTIATION BOARD

PERSONS HOLDING PRIME CONTRACTS OR SUBCONTRACTS FOR TRANSPORTATION BY WATER AS COMMON CARRIER

Extension of Time for Filing Financial Statements

Every person who held a prime contract or subcontract for transportation by water as a common carrier at any time during the calendar year 1974 is hereby granted an extension of time until September 1, 1975 for filing a financial statement for such year pursuant to section 105(e) (1) of the Renegotiation Act of 1951, as amended.

Dated: May 1, 1975.

REX M. MATTINGLY,
Acting Chairman.

[FR Doc.75-11882 Filed 5-6-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

APRIL 29, 1975.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 3:45 p.m. (e.d.t.) on April 29, 1975 through midnight (e.d.t.) on May 8, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-11948 Filed 5-6-75;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

APRIL 29, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 30, 1975 through May 9, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-11949 Filed 5-6-75; 8:45 am]

[70-5339; Rel. No. 18965]

PENNSYLVANIA ELECTRIC CO.

Proposed Amendments of First Mortgage Indenture and Solicitation of Bondholders' Proxies

MAY 1, 1975.

In the matter of Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907 (70-5339).

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), an electric utility subsidiary company of General Public Utilities Commission, a registered holding company, has filed a post-effective amendment to the declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) 7, and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposals. All interested persons are referred to the declaration, as amended by the post-effective amendment, which is summarized below, for a complete statement of the proposals.

By order dated July 18, 1973 (HCAR No. 18035), the Commission authorized Penelec to amend its First Mortgage Indenture and Deed of Trust dated as of January 1, 1942, as heretofore supplemented and amended by twenty-seven supplemental indentures ("Indenture") to effect two changes. Penelec proposed to eliminate the covenant which provides that Penelec will duly observe and conform to all valid requirements of any governmental authority relative to any mortgaged property. It was stated that such covenant be eliminated since, under a developing pattern of legislation and administrative action, there will be periods when Penelec will be unable to comply with governmental requirements with respect to its mortgaged property, although it may not be expected by the governmental agency to be in compliance. However, this covenant in the Indenture could be construed as resulting in a default under the Indenture. Penelec stated that the elimination of this covenant will not relieve it of its obligation to comply with governmental requirements, but it will permit appropriate governmental enforcement measures consistent with their intent.

In addition, Penelec proposed to include as bondable property additions, property for which Penelec does not have all necessary permission from governmental authorities to operate, but which otherwise would constitute bondable

property additions. Penelec stated further that although, under the Indenture, it was specifically contemplated that property additions under construction can constitute bondable property, it is believed that it is not clear whether the Indenture permits the inclusions of, in computing the bondable value of property additions, the value of Penelec's plant and equipment as to which all currently obtainable permission has been received, but as to which further governmental permission must be obtained in the future. Penelec stated that this ambiguity jeopardizes its ability to finance additions to its facilities in the most economic and orderly manner.

Penelec now amends its declaration to state that the Indenture has been amended and supplemented by thirty Supplemental Indentures. The affirmative vote of the holders of 75% in principal amount of the First Mortgage Bonds outstanding is required for approval of the proposed amendments to the Indenture. Penelec intends to enter into a Supplemental Indenture as soon as practicable after the meeting of the bondholders, scheduled for July 11, 1975, but in any event no later than March 31, 1976. It is proposed that proxies be solicited from bondholders through the use of proposed proxy solicitation material.

The fees and expenses to be incurred in connection with the proposals are estimated at \$130,000, including legal fees of \$21,000. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed amendments of the Indenture and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposals.

Notice is further given that any interested person may, not later than May 27, 1975, request in writing that a hearing be held with respect to the proposed amendments, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is or-

dered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-11950 Filed 5-6-75; 8:45 am]

[Rel. No. 34-11354, File No. S7-542]

QUARTERLY FINANCIAL STATEMENT DATA AND REVIEW BY INDEPENDENT PUBLIC ACCOUNTANTS

Public Proceedings

The Commission today authorized a public rule making proceeding to determine facts, conditions, practices and matters relating to the inclusion of selected quarterly data in footnotes to annual financial statements filed with the Commission or distributed to security holders by registrants; the auditing or review procedures which might be applied to such data by independent public accountants and the cost thereof; the establishment of review procedures to be applied by independent public accountants to financial statement data filed by registrants in quarterly reports and the nature and cost of such procedures; and other possible changes in reporting and registration forms with respect to such data or procedures. The proceeding will be conducted for the Commission by the Office of the Chief Accountant.

In this connection, the Commission has proposed amendments to registration and reporting forms in Securities Act Release 5549, December 19, 1974 (File S7-542) [40 FR 1079] which deal with several aspects of the matters to be considered in these proceedings. Also, the Commission today proposed certain additional and alternative amendments to the forms in Release 33-5579 (File S7-542) (April 17, 1975). It is expected that the proposals contained in those releases will provide a focus for the matters to be considered in the proceedings, but the proceedings are not limited only to those specific proposals.

The primary purpose of these hearings is to develop information for rule making purposes and consideration of disclosure and regulatory policies and not for enforcement purposes.

The hearings will begin at 10 a.m., e.d.t., on June 2, 1975 and continue thereafter at such times and places as the hearing officer may determine through June 18, 1975, and will consider specifically:

(1) whether data pertaining to quarterly periods should be required to be included in notes to annual financial statements filed with the Commission or distributed to security holders by registrants and, if so, what data;

(2) whether such data should be required to be audited, or reviewed but not audited, or not be required to be reviewed or audited by independent public accountants;

(3) the nature and extent of auditing or review procedures which might be required and the cost thereof;

(4) whether procedures should be established for the review by independent public accountants of financial statement data filed by registrants in quarterly reports;

(5) whether such reviews and reports thereon should be required in filings of some or all registrants or merely permitted;

(6) the costs of such procedures;

(7) the desirability and cost of other possible changes in reporting and registration forms with respect to such data and procedures; and

(8) the effect of the civil and criminal liability provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 on quarterly data filed in annual statements and on independent public accountants who perform review procedures.

For the purpose of this proceeding, the Commission has appointed John C. Burton, A. Clarence Sampson, Richard H. Rowe, Ralph C. Hocker, Mary E. T. Beach and Jean W. Gleason hearing officers. George D. Sergio, Victor H. Sparrow, John M. Schweitzer and Paul F. Pautler will act as representatives of the Office of the Chief Accountant and the Division of Corporation Finance.

Interested persons who wish to submit written statements of their views relating to these matters or who wish additional information should contact Mr. Sergio, Office of the Chief Accountant, 500 North Capitol Street, Washington, D.C. 20549. Written statements should be submitted prior to June 2, 1975, and should refer to File No. S7-542.

Those persons wishing to appear and give an oral presentation in addition to their written submission will be permitted to do so at the sole discretion of the hearing officer and will be limited to 15 minutes. Twenty-five copies of the written text of their oral statement should be received by the hearing officer no later than two business days prior to their scheduled appearance and such persons should be prepared to respond to inquiries from the Commission's staff.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-11952 Filed 5-6-75; 8:45 am]

[Rel. No. 34-11385]

REPORTING REQUIREMENTS GOVERNING LAST SALE INFORMATION

Requests for Exemptions

The Securities and Exchange Commission announced its disposition of certain requests received from the Detroit Stock Exchange ("DSE") and from the Intermountain Stock Exchange ("ISE") for exemptions from the reporting requirements of Rule 17a-15 (the "Rule") [17 CFR 240.17a-15] under the Securities Exchange Act of 1934. The DSE has filed with the Commission a plan under the Rule whereby it would become an "other reporting party" pursuant to the terms of the joint industry plan (the "Plan") declared effective under the Rule as of

May 17, 1974 by the Commission.¹ The DSE's plan was declared effective by the Commission in Securities Exchange Act Release No. 11255 (February 18, 1975) [40 FR 8397 (February 27, 1975)] upon execution by the DSE of the necessary agreements with the Securities Industry Automation Corporation, processor for the consolidated transaction reporting system, to become an "other reporting party" under the Plan.

In reviewing the DSE's and ISE's exemption requests, the Commission considered the aggregate share and dollar volume of "eligible" listed securities (as that term is defined in the Plan) traded on the DSE and the ISE, respectively, the share and dollar volume of the particular issues of such securities traded on each of those exchanges in relationship to the volume of such trading in the primary markets for those issues, and the costs to the DSE and ISE of compliance with the reporting requirements of the Rule. The Commission has concluded tentatively that, as a general matter, no market center which, on an annual basis, has either (i) an aggregate dollar volume of transactions in "eligible" listed securities in excess of \$250 million, or (ii) share volume in any particular "eligible" listed security equal to or exceeding 5% of the total volume in that security from all reporting markets should be exempted from the Rule's reporting requirements. Consequently, the Commission determined that the exemption request of the DSE should be denied and that the request of the ISE should be granted. The ISE is required, by the terms of its exemption, to report to the Commission on a weekly basis details of its transactions (if any) in "eligible" listed securities.

A similar request for an exemption from the reporting requirements of the Rule submitted to the Commission by the Spokane Stock Exchange is still pending.

The texts of letters informing the DSE and the ISE of the Commission's action are set forth below:

APRIL 25, 1975.

M. EDWARD DENNY,
Executive Vice President, Detroit Stock Exchange, 2314 Penobscot Building, Detroit, Michigan 48226.

DEAR MR. DENNY: The Commission has reviewed the request submitted by the Detroit Stock Exchange (the "DSE"), pursuant to subsection (b) of Rule 17a-15 (the "Rule") under the Securities Exchange Act of 1934, for an exemption from the reporting requirements of that Rule. In the course of its review, the Commission has considered, among other things, the share and dollar volume of the DSE's transactions in "eligible" listed securities (as that term is defined in the joint industry plan declared effective by the Commission under the Rule (the "Plan")) in relation to the volume of such trading in the primary markets for such securities and the cost to the DSE of being required to comply with the Rule's reporting provisions.

The Commission has concluded preliminarily that no market center which, on an annual basis, has (i) an aggregate dollar volume of transactions in "eligible" listed

securities exceeding \$250 million, or (ii) an aggregate share volume of transactions in any particular "eligible" listed security equal to or exceeding 5% of the total volume in that security from all reporting markets, should be exempted from the reporting requirements of the Rule.

As a consequence of its review, in light of the tentative standards enunciated above, the Commission currently considers that exclusion of reports of the DSE's transactions in "eligible" listed securities from the consolidated transaction reporting system contemplated by the Rule would not be consistent with the maintenance of fair and orderly markets, the public interest or the protection of investors. Consequently, the Commission has authorized me to inform you that the DSE's request for exemption from the reporting requirements of the Rule has been denied. The Commission reminds the DSE that its plan filed under the Rule will not be effective until the DSE has become an "other reporting party" under the terms of the Plan.

The Commission would be interested in receiving any comments you may have on the tentative standards employed by the Commission in considering the DSE's exemption request (including any suggestions for altering or supplementing those standards).

Sincerely,

LEE A. PICKARD,
Director.

APRIL 29, 1975.

MR. ERNEST MUTH,
President, Intermountain Stock Exchange,
39 Exchange Place, Salt Lake City, Utah
84111.

DEAR MR. MUTH: The Commission has reviewed the request of the Intermountain Stock Exchange (the "ISE"), submitted pursuant to subsection (b) of Rule 17a-15 (the "Rule") under the Securities Exchange Act of 1934, for an exemption from the reporting requirements of that Rule. In the course of its review, the Commission has considered, among other things, the share and dollar volume of the ISE's transactions in "eligible" listed securities (as that term is defined in the joint industry plan declared effective by the Commission under the Rule (the "Plan")) and the cost to the ISE of being required to comply with the reporting provisions of the Rule.

The Commission has concluded preliminarily that no market center which, on an annual basis, has (i) an aggregate dollar volume of transactions in "eligible" listed securities exceeding \$250 million, or (ii) an aggregate share volume in any particular "eligible" listed security equal to or exceeding 5% of the total volume in that security from all reporting markets, should be exempted from the reporting requirements of the Rule.

As a consequence of its review, in light of the tentative standards enunciated above, the Commission presently considers that exclusion of reports of the ISE's transactions in "eligible" listed securities would be consistent with the maintenance of fair and orderly markets, the public interest and the protection of investors. Consequently, the Commission has authorized me to inform you that the ISE's request for exemption from the Rule has been granted.

The Commission's grant of the ISE's exemption request is conditioned upon the submission by the ISE to the Director, Division of Market Regulation, of weekly reports, no later than five days after each week, detailing the ISE's transactions in each "eligible" listed security traded on the ISE during the previous week; provided, however, that no report need be filed for any week in which there were no transactions on the ISE in any "eligible" listed security. This

¹ Securities Exchange Act Release No. 10787 (May 10, 1975).

exemption is subject to revocation if the Commission finds that future circumstances warrant such action.

If the foregoing reporting requirement appears burdensome to you, please let us have your thoughts as to an appropriate revision. In addition, the Commission would be interested in receiving any comments you may have on the tentative standards enunciated above with respect to disposition of exemption requests (including any suggestions for altering or supplementing those standards).

Sincerely,

LEE A. PICKARD,
Director.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-11953 Filed 5-6-75; 8:45 am]

[70-5674; Rel. No. 18962]

SOUTHERN CO.

Requested Exception From Competitive Bidding Requirements Regarding Issue and Sale of Common Stock

APRIL 30, 1975.

In the matter of The Southern Company, Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346; (70-5674).

Notice is hereby given that The Southern Company ("Southern"), a registered holding company, has filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rules 50 and 100 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to issue and sell 11,000,000 shares of its authorized but unissued common stock, par value \$5 per share ("Common Stock"). Southern estimates that the proposed sale of the Common Stock will provide it with aggregate cash proceeds of approximately \$110,000,000. It proposes to utilize the net proceeds to repay, in part, its short-term notes payable. The company expects that, just prior to sale of the Common Stock, \$111,500,000 of such notes will be outstanding. Southern requests an exception from the competitive bidding requirements of Rule 50 under the Act for the issuance and sale of such Common Stock to permit it to select one or more investment banking firms to form a syndicate which will act as underwriters for the Common Stock and with which Southern will negotiate the terms on which it will sell the Common Stock to such underwriters.

In support of its request for an exception, Southern states that its financial and operating situation mandate such a request. Its System has had difficulty over the past three years in financing its construction program through conventional security issues, and the bond rating for its largest subsidiary company, Georgia Power Company ("Georgia") has recently been suspended by Moody's.

Southern believes it is important to sell the proposed common stock at this time. Based on its experience with its last common stock issue in September 1974, the size of the proposed offering, and its knowledge of current transfers in ownership of its common stock, Southern states that its sale will require a marketing effort directed primarily to individual investors.

Furthermore, Southern states that due to the limited internal cash generation of its subsidiaries, the System must depend to an unusual degree on the capital markets in an effort to raise the substantial sums necessary to finance its 1975 construction program, which has been reduced by \$310,000,000 or 23.1%. At the present time the ability of Southern's operating subsidiaries to issue first mortgage bonds or preferred stock is severely limited because of insufficient earnings to satisfy coverage requirements contained in their respective mortgages or charters. Southern states that considering the very large short-term debt position of the System (\$478,972,000 in aggregate borrowings as of April 11, 1975), and the present inability of Southern's subsidiaries to issue senior securities in adequate amounts, it is necessary for Southern to effect a successful common stock sale in June 1975 to meet its construction program commitments and to fulfill its obligation to the banks to repay its portion of the System's borrowings.

A statement of the fees and expenses to be incurred will be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 19, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-11951 Filed 5-6-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-19]

ANACONDA CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 30, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steel Workers of America, AFL-CIO, on behalf of the workers and former workers of the Perth Amboy, New Jersey, plant of the Montana Mining Division, Anaconda Company, Butte, Montana (TA-W-19). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with copper shapes, wire bars, and cathodes produced by the Perth Amboy, New Jersey plant of the Montana Mining Division, Anaconda Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of May 1975.

DOMINIC SORRENTINO,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.75-11966 Filed 5-6-75;8:45 am]

[TA-W-15]

BROWN SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 29, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the workers and former workers of the Salem, Illinois plant of Brown Shoe Co., St. Louis, Missouri (TA-W-15). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the women's dress shoes produced by the Salem, Illinois plant of Brown Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of April 1975.

DOMINIC SORRENTINO,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.75-11963 Filed 5-6-75;8:45 am]

[TA-W-16]

FLORSHEIM CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 29, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO on behalf of the workers and former workers of the Florsheim Company, Palmyra, Missouri, Division of Florsheim Shoe Company, Chicago, Illinois (TA-W-16). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the women's dress and novelty shoes produced by the Florsheim Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of April 1975.

DOMINIC SORRENTINO,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.75-11963 Filed 5-6-75;8:45 am]

[TA-W-17]

HERBERT LEVINE, INC.**Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance**

On April 29, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the workers and former workers of Herbert Levine, Inc., New York, New York (TA-W-17). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the women's dress shoes produced by Herbert Levine, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of April 1975.

DOMINIC SORRENTINO,
*Acting Director, Office of
Trade Adjustment Assistance.*

[FR Doc.75-11964 Filed 5-6-75;8:45 am]

[TA-W-18]

PALIZZIO, INC.**Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance**

On April 29, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the

workers and former workers of Palizzio, Inc., Long Island City, New York (TA-W-18). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the women's dress shoes produced by Palizzio, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of April 1975.

DOMINIC SORRENTINO,
*Acting Director, Office of
Trade Adjustment Assistance.*

[FR Doc.75-11965 Filed 5-6-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 760]

ASSIGNMENT OF HEARINGS

MAY 2, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136384 Sub 7, Palmer Motor Express, Inc., now assigned February 25, 1975 at Savannah, Georgia, has been continued to May 6, 1975 at Atlanta, Ga.; in a hearing room to be designated later.

MC F 12475, The Greyhound Corporation—Control—Atl. Inc., and MC 140384, ATL, Inc., now being assigned July 22, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11327, National Freight, Inc.—Control—Cross Transportation, Inc., MC-F-11332, Boston & Taunton Transportation—Purchase (Portion)—Cross Transportation, Inc., MC-F-11336, Garton's Express, Inc.—Purchase (Portion)—Cross Transportation, Inc., MC 1385 Sub 4, Garton's Express, Inc. Extension of Operations, MC-F-11337, Burgmeyer Bros.—Purchase (portion)—Cross Transportation, Inc., MC-F-11338, Kenmore Transportation Co.—Purchase (Portion)—Cross Transportation, Inc., and MC-F-11343, Towers Transportation, Inc.—Purchase (Portion)—Cross Transportation, Inc., now being assigned May 20, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35533 Sub 4, Petroleum Products Southwest and Midwest, Williams Pipe Line and FSA 42952, Pipeline Rates—Petroleum Products From The Southwest, now assigned June 24, 1975, at Washington, D.C. is postponed indefinitely.

[SEAL] **JOSEPH M. HARRINGTON,**
Acting Secretary.

[FR Doc.75-11996 Filed 5-6-75;8:45 am]

[AB 28]

**CENTRAL OF GEORGIA RAILROAD CO.
Abandonment**

APRIL 25, 1975.

In the matter of: Central of Georgia Railroad Company, abandonment of operations between Lafayette and Roanoke, in Chambers and Randolph Counties, Alabama.

The Interstate Commerce Commission hereby gives notice that: 1. By order served March 18, 1975, applicant was required to publish a notice in Chambers and Randolph Counties, Ala., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the March 18, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] **ROBERT L. OSWALD,**
Secretary.

[FR Doc.75-12000 Filed 5-6-75;8:45 am]

[Ex Parte 313]

**FREIGHT RATES AND CHARGES
1975 Labor Costs**

At a general session of the Interstate Commerce Commission, held at its office

in Washington, D.C., on the 2nd day of May 1975.

It appearing, that by petition and verified statements filed April 28, 1975, the railroads listed in Appendix I of the petition and certain water and motor carriers having joint rates with the Appendix I railroads, request the Commission to institute an investigation into the adequacy of freight rates and charges of all railroad common carriers within the United States; to make all such railroad common carriers respondents therein; and to authorize and permit increases in all freight rates and charges within, from, to and via all territories of 5 percent, effective May 28, 1975, and 2.5 percent, effective October 1, 1975, to offset 1975 labor cost increases, subject to exceptions and holdowns set forth in Appendix II including, among others:

(1) No increase in rates and charges applicable from, to or via points on the Long Island Rail Road, nor from, to, via, or at points on the Baltimore and Ohio Railroad Company, Chesapeake and Ohio Railway Company, Western Maryland Railway Company and certain other subsidiaries of the Chessie System;

(2) The Southern carriers have not agreed to participate in the 5-percent increase proposal, but, according to petitioners, they have concurred in the 2.5 percent increase and any tariff authorized to be filed will be corrected to reflect the concurrence of Southern Roads other than the Florida East Coast Railway Co. (FEC);

It further appearing, that petitioners seek permission to make the proposed increases effective May 28, 1975 and October 1, 1975, subject to the condition that refunds shall be made in the event that, after such investigation as the Commission deems necessary, no increase or a lesser increase than that requested in the present petition is authorized, and they seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges, and the entry of appropriate orders under Sections 4 and 8 of the Interstate Commerce Act;

It further appearing, that petitioners have filed and served 35 verified statements constituting their evidential case pursuant to the requirements set forth in "Procedures Governing Rail Carrier General Increase Proceedings," 49 CFR 1102, including certain financial data suggested in Appendix B of the report and order in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288;

It further appearing, that railroad petitioners have submitted data of the type called for in Ex Parte 290 (Sub-No. 1), decided October 4, 1974, namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase;

It further appearing, that petitioners contend that the requested increase will have no significant adverse effect upon the movement of the traffic or transportation of recyclable commodities by rail,

including cullet, textile waste, waste paper, ferrous or non-ferrous scrap and chemical wastes;

It further appearing, that any person or persons believing that the requested increase, if allowed to become effective, would have a significant impact upon the quality of the human environment are hereby invited to comment upon this matter in the protests or verified statements authorized to be filed pursuant to this order, and that environmental matters and requirements of the National Environmental Policy Act of 1969 will be fully considered by the Commission in any subsequent action on the merits of the requested general increases;

And it further appearing, that by Special Permission Order No. 75-3900 served herewith, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition, to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act, and modifying outstanding orders to the extent necessary to permit that filing, and good cause appearing therefor:

It is ordered, That all common carriers by railroad be, and they are hereby, made respondents to this proceeding.

It is further ordered, That pursuant to the special permission authority granted this date, the schedules shall be published and filed upon not less than 30 days' notice effective not earlier than June 6 nor later than July 10, 1975,¹ as to the 5 percent increase proposed and not earlier than October 1, 1975 as to the 2½ percent increase, subject to protest and possible suspension by the Commission, said schedules to contain an appropriate refund provision. Protests and/or verified statements shall be filed on or before May 28, 1975 insofar as the 5 percent increase is concerned and on or before September 5, 1975, with regard to the 2½ percent increase proposal. The October 1 effective date may not be advanced to an earlier date, and this increase will be separately considered by the Commission shortly prior to that effective date.

It is further ordered, That in order that the public may be fully informed on the prospective actual effects of the proposal, on or before May 9, 1975, railroad petitioners shall file with the Commission and serve upon the parties of record in the last general increase proceeding² a statement concerning the manner in which petitioners intend to resolve the problems created by the apparent non-participation in the proposed 5 percent increase of Southern Territory railroads and the apparent flagout by the Chessie System, the FEC, and the Long Island Rail Road Company in both steps of the proposed increase. This filing shall include information as to the competitive

exceptions, if any, which would be required in addition to those set forth in Appendix II, and information concerning the impact on the railroad petitioners' revenue projections caused by non-application of the proposed increase to traffic moving to, from, or via points on the lines of the indicated carriers. If data from the non-participating roads is included in the original filing, then separate figures and supporting data shall be supplied for carriers participating in the increase. Any statement filed pursuant to this paragraph shall explain how petitioners intend to resolve the apparent disruption of port relationships and possible violations of sections 2, 3, and 4 which may occur as a result of the proposed exceptions or competitive exceptions that may be compelled by the non-participation of certain railroads in the increase. The statement shall also include respondents' estimate, summarized by district and total United States, of the annual cost of the 10 percent and 5 percent wage rate increases effective in 1975, and the 20-percent increase in health and welfare payments effective in 1975, including the methodology and underlying details used to calculate the estimate, such as the size and composition of the work force, wage rates prior to the effective date of the wage rate increases, total service hours paid for, and traffic volume in ton miles.

It is further ordered, That any person opposing or wishing to comment on the proposed 5 percent increase in rates and charges shall file and serve verified statements and arguments or unverified protests,³ or both, as provided below, on or before May 28, 1975. Pleadings directed to the October 1 increase may be filed subsequently as provided below on or before September 5, 1975.

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission and will be considered as submitted in evidence along with the verified statements of the respondents, as a basis for a decision by the Commission on the merits. Any submission on asserted environmental impact should be set forth under an appropriate subheading in order to properly identify such subject matter.

(b) Verified statements may include argument in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served. Requests for oral argument, if any, will be disposed of by further order of the Commission.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 50 and Form No. 6 of the Commission's General Rules of Practice (See 49 CFR 1100.50 and Appendix B, Form No. 6, to 49 CFR 1100). The post office ad-

¹ In the event the tariff is not filed prior to May 10, 1975, the due date specified for filing of protests and verified statements will be extended by subsequent Commission order.

² Copies of the statement shall be furnished to other interested persons on request.

³ See paragraph (g).

dress of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 24 copies of each such document for the use of the Commission shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon showing of good cause.

One copy shall be served upon the representative of the petitioning railroads, Thormund A. Miller, Esq., American Railroads Building, 1920 "L" Street, NW., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 25 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided, and verified statements not so served will not be considered.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges should include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

(g) Any party who does not desire to submit verified statements of evidence, as described above, may file and serve in like fashion unverified protests which will be considered by the Commission only with respect to the issue of suspension.

It is further ordered. That on or before June 2 and September 15, 1975, respectively, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings seeking suspension, and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulations published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. Such statements shall, however, be furnished to other interested parties upon request.

It is further ordered. That the request for fourth-section relief will be considered following the filing of protests and statements in opposition and replies thereto;

And it is further ordered. That in all other respects the petition be, and it is hereby, denied.

SPECIAL PERMISSION No. 75-3900

It is ordered, for good cause shown:

1. All railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, be, and they are hereby, except as otherwise provided herein, authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 [49 CFR 1300], when

publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than June 6, 1975, nor later than July 10, 1975 as to the 5 percent increase and not earlier than October 1, 1975, as to the 2½ percent increase, providing for increased rates and charges as set forth in the petition:

(a) By publishing and filing a master tariff of increased rates and charges, and supplements thereto, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with four percent interest.

In the event any increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with four percent interest.

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the first effective date, which may not be extended or canceled except upon specific authorization of this Commission, and all relief herein expires with that date. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be canceled and transferred to the particular tariffs affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed hereunder shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to refund clause worded substantially as in paragraph 1(a) herein.

(e) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the short-form methods authorized herein shall bear the notation:

Form of publication authorized, I.C.C. permission No. 75-3900.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading:

Publication made in accordance with I.C.C. permission No. 75-3900.

3. Connecting-link supplements authorized herein shall be exempt from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed hereunder shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (49 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension or rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See for example Increased Freight Rates and Charges, 1972, 341 I.C.C. 288, 336, and Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 188. Rate increase tables on grain shall progress in one-half cent increments.

It is further ordered. That, should both proposed increases become effective, in whole or in part, or in a different form, there shall be added to the master tariff by subsequent amendment, within 30 days of the last effective date, one or more tables which will provide a one-step determination of the rate or charge applicable to traffic subject to both increases.

It is further ordered. That future orders and notices of the Commission in this proceeding will be sent only to those participating as herein provided, and those interested persons who specifically request to be included on the service list.

And it is further ordered. That notice of this order be given by serving a copy thereof on each party to the proceeding in Ex Parte No. 310, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Direc-

tor, Office of the Federal Register for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-12001 Filed 5-6-75; 8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MAY 2, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 75-85-MF/O, filed March 21, 1975. Applicant: HARRY CUMMINGS, doing business as, H & M TRUCKING, Star Route No. 2, Soldotna, Alaska 99669. Certificate of public Convenience and Necessity sought to operate a freight service as follows: Transportation of Logs, poles, piling, cants, lumber, chips and/or all forest products, between all points in Alaska over irregular routes, non-scheduled service. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Department of Commerce, Alaska Transportation Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, Ala. 99501 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-12002 Filed 5-6-75; 8:45 am]

[Notice 16]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 2, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commis-

sion under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4 (c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 108461 (Deviation No. 8). WHITFIELD TRANSPORTATION, INC., 300-316 N. Clark Road, P.O. Drawer 9897, El Paso, Tex. 79989, filed April 17, 1975. Carrier's representative: James E. Sneed, 215 Lincoln Avenue, P.O. Box 2228, Santa Fe, N. Mex. 87501. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Clovis, N. Mex., over U.S. Highway 70 to Roswell, N. Mex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Clovis, N. Mex., over U.S. Highway 60 to Encino, N. Mex., thence over U.S. Highway 285 to Clines Corners, N. Mex., thence over U.S. Highway 66 to Albuquerque, N. Mex., thence over U.S. Highway 85 (Interstate Highway 25) to San Antonio, N. Mex., thence over U.S. Highway 380 to Carriazo, N. Mex., thence over U.S. Highway 54 to Tularosa, N. Mex., thence over U.S. Highway 70 to Roswell, N. Mex., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-12003 Filed 5-6-75; 8:45 am]

[Notice 35]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 2, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating rights applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212 (b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and

(5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's General Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) or section 240(c) (4) of the special rules, and shall include the certification required therein.

No. MC 40978 (Sub-No. 19) (Notice of Filing of Petition to Add Destination Points), filed April 24, 1975. Petitioner: CHAIR CITY MOTOR EXPRESS COMPANY, a Corporation, 3321 Highway 141 South, P.O. Box 686, Sheboygan, Wis. 53081. Petitioner's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Petitioner holds a motor common carrier certificate in No. MC 40978 (Sub-No. 19), issued September 29, 1972, authorizing transportation, as pertinent, over irregular routes, of New furniture, from Muscatine, Iowa, to points in Wisconsin. By the instant petition, petitioner seeks to add points in Illinois and points in Indiana within the Chicago, Ill. Commercial Zone, as destination points in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 62254 (Notice of Filing of Petition to Modify Territorial Description), filed April 18, 1975. Petitioner: C M R TRANSPORTATION, INC., P.O. Box 267, Bound Brook, N.J. 08805. Petitioner's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor common carrier certificate in No. MC 62254, issued March 27, 1973, authorizing transportation, as pertinent, over irregular routes, of *General commodities* (except those of unusual value, Classes A and B explosives, liquor, livestock, silk, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading). Between points in Middlesex, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. By the instant petition, petitioner seeks to modify the above territorial description so as to read: Between points in Middlesex, Somerset, and Union Counties, N.J., on the one hand, and, on the other, points in the New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203 (b) (8) of the Interstate Commerce Act (the exempt zone), and those points in New Jersey any part of which is within five (5) miles of New York, N.Y.; or, in the alternative, that the Commission issue its appropriate order permitting petitioner to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y. Commercial Zone, as defined by the Commission. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 109324 (Sub-No. 28) (Notice of Filing of Petition to Modify Certificate), filed April 18, 1975. Petitioner: GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601. Petitioner's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Petitioner holds a motor common carrier certificate in No. MC 109324 (Sub-No. 28), issued March 31, 1975, authorizing transportation, over irregular routes, of (1) *Pulpboard boxes*, from the facilities of Rock City Packaging of Arkansas, Inc., located at Conway, Ark., to points in Texas, Oklahoma, Kansas, Missouri, Illinois, Tennessee, Alabama, Mississippi, and Louisiana; and (2) *pulpboard*, from the destination states named above, to the facilities of Rock City Packaging of Arkansas, Inc., located at Conway, Ark., restricted to the transportation of traffic originating at or destined to the facilities of Rock City Packaging of Arkansas, Inc., at Conway, Ark. By the instant petition, petitioner seeks to modify the above certificate by adding authority to transport *pulpboard*, from the facilities of Rock City Packaging of Arkansas, Inc., at Conway, Ark., to the facilities of Rock City

Packaging, Inc., at Oklahoma City, Okla. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 114457 (Sub-No. 18) (Notice of Filing of Petition To Modify a Certificate), filed April 18, 1975. Petitioner: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Petitioner's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Petitioner holds a motor common carrier certificate in No. MC 114457 (Sub-No. 18), issued December 10, 1965 authorizing transportation, over irregular routes, of *Ammonia compounds, animal feed, soap, shampoo, washing compounds, bouillon cubes, canned meat, pizza mix, tomato paste, liquid sizing, starch substitutes, fabric softeners, and water treating compounds* (except in bulk, in tank vehicles), from the plantsite of Armour Grocery Products Company located in Aurora Township, Kane County, Ill., to points in Minnesota and Wisconsin (except points in the Kenosha, Racine and Milwaukee, Wis. Commercial Zones as defined by the Commission). By the instant petition, petitioner seeks to modify the above commodity description so as to read: *Such merchandise* as is dealt in by wholesale and retail grocery and food business houses and institutional supply houses (except commodities in bulk), and to substitute "Armour-Dial, Inc.," in lieu of "Armour Products Company." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 117851 (Sub-Nos. 2, 4 and 8) (Correction of Notice of Filing of Petition to Modify Permits), filed March 27, 1975, and published in the FEDERAL REGISTER issue of April 9, 1975, and partially republished as corrected this issue. Petitioner: JOHN R. CHEESEMAN, 501 North First Street, Fort Recovery, Ohio 45846. Petitioner's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. By the instant petition, petitioner seeks to consolidate the authority held in the above permits, and to change the base point from the plant site of Fort Recovery Industries, Inc., to points in Recovery Township and Gibson Township (Mercer County), Ohio, so as to read: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, chemicals, dolomite, refractories, refractory products, lime, limestone products, and commodities requiring special equipment), between points in Recovery Township and Gibson Township (Mercer County), Ohio, on the one hand, and, on the other, points in the United States

(except Alaska and Hawaii, and except service from Atlanta, Ga.), under a continuing contract or contracts with Fort Recovery Industries, Inc., of Fort Recovery, Ohio. The purpose of this correction is to indicate the correct base points requested in this petition. The rest of the notice remains as originally published. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126610 (Notice of Filing of Petition to Substitute Contracting Shipper), filed April 18, 1975. Petitioner: OREN TROY PARKER, 1336 Fourth Street, Wenatchee, Wash. 98801. Petitioner's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Petitioner holds a motor contract carrier permit in No. MC 126610, issued July 21, 1966, authorizing transportation, over irregular routes, of *Such merchandise* as is dealt in by wholesale and retail grocery establishments, excluding commodities requiring temperature control, from points in California in or north of Santa Cruz, Santa Clara, Stanislaus, Tuolumne and Alpine Counties, Calif., to points in Washington (except points in Island and San Juan Counties, points on the Olympic Peninsula, and points on or west of that portion of U.S. Highway 99 extending south from the Snohomish-King County Line), under a continuing contract, or contracts, with Pacific Gamble Robinson Company of Seattle, Wash. By the instant petition, petitioner seeks to substitute Safeway Stores, Incorporated as a contracting shipper in the above authority in lieu of Pacific Gamble Robinson Company. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133437 (Sub-No. 3) (Notice of Filing of Petition to Modify Territorial Description), filed April 18, 1975. Petitioner: DAVIS CARTAGE CO., a Corporation, 1957 Findley, Saginaw, Mich. 48601. Petitioner's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Petitioner holds a motor contract carrier permit in No. MC 133437 (Sub-No. 3), issued March 29, 1973, authorizing transportation, over irregular routes, of *Sugar, corn syrup, dextrose, and blends thereof, and dried sugar, beet pulp and sugar beet molasses*, blended, from Caro, Carrollton, Croswell, Sebawing, and Saginaw, Mich., to points in Illinois, Indiana, New York, Pennsylvania, Ohio and Wisconsin, under a continuing contract or contracts with Michigan Sugar Company, of Saginaw, Mich. By the instant petition, petitioner seeks to change the origin points in the above territorial description so as to read, from points in Genesee, Saginaw, Sanilac, Shiawassee, Huron and

Tuscola Counties, Mich., to points in Illinois, Indiana, New York, Pennsylvania, Ohio and Wisconsin. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 136273 (Notice of filing of Petition To Modify Territorial Descriptions), filed April 24, 1975. Petitioner: KENNETH G. MAY & ORVILLE L. HOWARD, doing business as, CORONADO TRUCKING CO., 307 Old County Road, Edgewater, Fla. 32032. Petitioner's representative: William J. Monheim, P.O. Box 1756, Whittier, Calif. 90609. Petitioner holds a motor contract carrier permit in No. MC 136273, issued June 13, 1973, authorizing transportation, over irregular routes, of (1) *Paint, and paint materials*, in containers, from Edgewater, Fla., to points in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Missouri, New Jersey, North Carolina, North Dakota, Ohio, South Carolina, Texas, Virginia, and Washington; and (2) *Materials and supplies* used in the manufacture, production, and distribution of the commodities described in (1) above (except in bulk), from points in California, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, Texas, and West Virginia, to Edgewater, Fla., under a continuing contract, or contracts with Coronado Paint Co., of Edgewater, Fla. By the instant petition, petitioner seeks to modify the above territorial descriptions so as to include the New Cumberland Army Depot, Pa., as a destination point in (1) above, and to include points in New York; Gantt's Junction, Ala.; Coffeyville, Kans.; Dillon, Mont.; Santa Fe, N. Mex.; and Palmerton, Penn. and Pittsburgh, Pa., as origin points in (2) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

Applications for certificates or permits which are to be processed concurrently with applications under section 5 governed by Special Rule 240 to the extent applicable.

No. MC 111496 (Sub-No. 21), filed March 8, 1975. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minn. 55113. Applicant's representative:

James M. Sanden, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), Between St. Cloud, Minn. and Duluth, Minn.; From St. Cloud over Minnesota Highway 23 to junction U.S. Highway 61, thence over U.S. Highway 61 to Duluth, and return over the same route, serving all intermediate points (except those on U.S. Highway 61, not including Duluth).

NOTE. By this application, applicant seeks to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. Common control may be involved. This is a matter directly related to a Section 5 proceeding in MC-F-12486 published in the *FEDERAL REGISTER* issue of April 23, 1975. If a hearing is deemed necessary, applicant requests it be held at either Fargo, N. Dak. or Minneapolis, Minn.

No. MC 115931 (Sub-No. 29), filed March 11, 1975. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 925, Baker, Mont. 59313. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Agricultural machinery and (b) parts, attachments and accessories* for the commodities in (a) above, from Bismarck, N. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Bismarck, N. Dak., restricted to traffic originating at or destined to the plant site and storage facilities of Clark Equipment Company—Melroe Division, at Bismarck, N. Dak.

NOTE. Common control may be involved. This is a matter directly related to a Section 5 proceeding in MC-F-12491 published in the *FEDERAL REGISTER* issue of April 23, 1975. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont. or St. Paul, Minn.

No. MC 118959 (Sub-No. 124), filed March 3, 1975. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63201. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board*, from the plant site of U.S. Plywood-Champion Papers, Inc., near Oxford, Miss., to points on and north of a line beginning at the west coast of California, at or near Noyo, Calif., and extending east along California Highway 20 to intersection Interstate Highway 5; thence south along Interstate Highway 5 to Sacramento, Calif.; thence east along Interstate Highway 80 to Winnemucca, Nev.; thence north along U.S.

Highway 95 to intersection Idaho Highway 55; thence east along Idaho Highway 55 to Boise, Idaho; thence south along Interstate Highway 80N to intersection Idaho Highway 68; thence east along Idaho Highway 68 to intersection U.S. Highway 93; thence north along U.S. Highway 93 to intersection Montana Highway 43; thence east along Montana Highway 43 to intersection U.S. Highway 91; thence north along U.S. Highway 91 to Great Falls, Mont.; thence east along U.S. Highway 87 to intersection Montana Highway 200; thence east along Montana Highway 200 to intersection Montana Highway 2005; thence east along Montana Highway 2005 to Glendive, Mont.; thence east along U.S. Highway 10 to Detroit Lakes, Minn.

Thence east on Minnesota Highway 34 to intersection Minnesota Highway 200; thence east along Minnesota Highway 200 to intersection U.S. Highway 2; thence east along U.S. Highway 2 to intersection U.S. Highway 51; thence south along U.S. Highway 51 to intersection Wisconsin Highway 64; thence east along Wisconsin Highway 64 to intersection U.S. Highway 45; thence south along U.S. Highway 45 to Fond du Lac, Wis.; thence east along Wisconsin Highway 23 to Sheboygan, Wis.; thence south along the Wisconsin State Boundary line to the Illinois State Boundary line; thence south along the Illinois State Boundary line to the Indiana State Boundary line; thence east along the Michigan-Indiana State Boundary line to the Ohio State Boundary line; thence south along the Indiana-Ohio State Boundary line to the Ohio-Kentucky State Boundary line; thence east along the Ohio-Kentucky State Boundary line to the Kentucky-West Virginia State Boundary line; thence south along the Kentucky-West Virginia State Boundary line to the Kentucky-North Carolina State Boundary line; thence south along the Kentucky-North Carolina State Boundary line to the Tennessee-North Carolina State Boundary line; thence east and south along the Tennessee-North Carolina State Boundary line to intersection U.S. Highway 321; thence east along U.S. Highway 321 to intersection U.S. Highway 421; thence east along U.S. Highway 421 to Greensboro, N.C.; thence east along U.S. Highway 70 to the Atlantic Ocean. The purpose of this filing is to eliminate a gateway at the plant site of Tech-Panel Corporation at or near Springfield, Ky.

(2) *Composition board and materials and supplies* used in the installation thereof (except commodities in bulk), from the plant site of the Flintkote Company at Meridian, Miss., to points in the United States on and north of a line beginning at the east coast of Maryland, at or near Ocean City, Md.; and extending west along U.S. Highway 50 to intersection U.S. Highway 50 and U.S. Highway 211; thence west along U.S. Highway 211 to intersection U.S. Highway 211 and U.S. Highway 11; thence south along U.S. Highway 11 to Lexington, Va.; thence west along U.S. Highway 60 to intersection U.S. Highway 60 and U.S.

Highway 19; thence south along U.S. Highway 19 to Beckley, W. Va.; thence south along West Virginia Highway 16 to intersection West Virginia Highway 16 and U.S. Highway 52; thence west along U.S. Highway 52 to the West Virginia-Kentucky State Boundary line; thence north along the West Virginia-Kentucky State Boundary line to the Ohio State Boundary line; thence west along the Kentucky-Ohio State Boundary line to the Indiana State Boundary line; thence southwest along the Indiana-Kentucky State Boundary line to a point on the Kentucky-Indiana State Boundary line at or near Louisville, Ky.; thence west along U.S. Highway 150 to Vincennes, Ind.; thence west along U.S. Highway 50 to intersection U.S. Highway 50 and Illinois Highway 130; thence north along Illinois Highway 130 to intersection Illinois Highway 130 and Illinois Highway 33; thence west along Illinois Highway 33 to intersection Illinois Highway 33 and Illinois Highway 128; thence north along Illinois Highway 128 to intersection Illinois Highway 128 and Illinois Highway 16; thence west along Illinois Highway 16 to intersection Illinois Highway 16 and Illinois Highway 29; thence north along Illinois Highway 29 to Springfield, Ill.; thence north along Illinois Highway 125 to intersection Illinois Highway 125 and U.S. Highway 67; thence north along U.S. Highway 67 to intersection U.S. Highway 67 and Illinois Highway 9; thence west along Illinois Highway 9 to Fort Madison, Iowa; thence west along Iowa Highway 2 to intersection Iowa Highway 2 and U.S. Highway 63; thence north along U.S. Highway 63 to intersection U.S. Highway 63 and U.S. Highway 34; thence north along U.S. Highway 34 to Osceola, Iowa.

Thence south along U.S. Highway 69 to intersection U.S. Highway 69 and Iowa Highway 2; thence west along Iowa Highway 2 to Nebraska City, Nebr.; thence south along U.S. Highway 75 to Auburn, Nebr.; thence west along U.S. Highway 136 to intersection U.S. Highway 136 and U.S. Highway 81; thence south along U.S. Highway 81 to intersection U.S. Highway 81 and U.S. Highway 24; thence west along U.S. Highway 24 to intersection U.S. Highway 24 and U.S. Highway 283; thence south along U.S. Highway 283 to intersection U.S. Highway 283 and Interstate Highway 70; thence west along Interstate Highway 70 to Oakley, Kans.; thence west along U.S. Highway 40 to junction U.S. Highway 40 and U.S. Highway 287; thence south along U.S. Highway 287 to intersection U.S. Highway 287 and Colorado Highway 96; thence west along Colorado Highway 96 to Ordway, Colo.; thence south along Colorado Highway 71 to Rocky Ford, Colo.; thence west along U.S. Highway 50 to Pueblo, Colo.; thence south on Interstate Highway 25 to Walsenburg, Colo.; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 550; thence south along U.S. Highway 550 to intersection U.S. Highway 550 and New Mexico Highway 504; thence west along New Mexico Highway 504 to intersection New

Mexico Highway 504 and U.S. Highway 160; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 89; thence south along U.S. Highway 89 to intersection U.S. Highway 89 and Interstate Highway 40; thence west along Interstate Highway 40 to Needles, Calif.; thence south along U.S. Highway 95 to intersection U.S. Highway 95 and California Highway 62; thence west along California Highway 62 to intersection California Highway 62 and Interstate Highway 10; thence east along Interstate Highway 10 to intersection Interstate Highway 10 and California Highway 86.

Thence south along California Highway 86 to intersection California Highway 86 and California Highway 78; thence west along California Highway 78 to intersection California Highway 78 and California Highway 79; thence south along California Highway 79 to intersection California Highway 79 and U.S. Highway 80; thence west along U.S. Highway 80 to the west coast of California at or near San Diego, Calif.; and points in Kentucky on and east of Alternate U.S. Highway 41 from the Tennessee-Kentucky State Boundary line to the Kentucky-Indiana State Boundary line. The purpose of this filing is to eliminate gateways at the Celotex Corporation at Birmingham, Ala., and the Tech Panel Corporation at or near Springfield, Ky. (3) *Aberboard*, from the plant site and storage facilities of Kroehler Manufacturing Company, in the Meridian, Miss. Commercial Zone as defined by the Commission, to points in the United States on and north of a line beginning at the east coast of Maryland, at or near Ocean City, Md.; and extending west along U.S. Highway 50 to intersection U.S. Highway 50 and U.S. Highway 211; thence west along U.S. Highway 211 to intersection U.S. Highway 211 and U.S. Highway 11; thence south along U.S. Highway 11 to Lexington, Va.; thence west along U.S. Highway 60 to intersection U.S. Highway 60 and U.S. Highway 19; thence south along U.S. Highway 19 to Beckley, W. Va.; thence south along West Virginia Highway 16 to intersection West Virginia Highway 16 and U.S. Highway 52; thence west along U.S. Highway 52 to the West Virginia-Kentucky State Boundary line; thence north along the West Virginia-Kentucky State Boundary line to the Ohio State Boundary line.

Thence west along the Kentucky-Ohio State Boundary line to the Indiana State Boundary line; thence southwest along the Indiana-Kentucky State Boundary line to a point on the Kentucky-Indiana State Boundary line at or near Louisville, Ky.; thence west along U.S. Highway 150 to Vincennes, Ind.; thence west along U.S. Highway 50 to intersection U.S. Highway 50 and Illinois Highway 130; thence north along Illinois Highway 130 to intersection Illinois Highway 130 and Illinois Highway 33; thence west along Illinois Highway 33 to intersection Illinois Highway 33 and Illinois Highway 128; thence north along Illinois Highway

128 to intersection Illinois Highway 128 and Illinois Highway 16; thence west along Illinois Highway 16 to intersection Illinois Highway 16 and Illinois Highway 29; thence north along Illinois Highway 29 to Springfield, Ill.; thence north along Illinois Highway 125 to intersection Illinois Highway 125 and U.S. Highway 67; thence north along U.S. Highway 67 to intersection U.S. Highway 67 and Illinois Highway 9; thence west along Illinois Highway 9 to Fort Madison, Iowa; thence west along Iowa Highway 2 to intersection Iowa Highway 2 and U.S. Highway 63; thence north along U.S. Highway 63 to junction U.S. Highway 63 and U.S. Highway 34; thence north along U.S. Highway 34 to Osceola, Iowa; thence south along U.S. Highway 69 to intersection U.S. Highway 69 and Iowa Highway 2; thence west along Iowa Highway 2 to Nebraska City, Nebr.; thence south along U.S. Highway 75 to Auburn, Nebr.; thence west along U.S. Highway 136 to intersection U.S. Highway 136 and U.S. Highway 81; thence south along U.S. Highway 81 to intersection U.S. Highway 81 and U.S. Highway 24; thence west along U.S. Highway 24 to intersection U.S. Highway 24 and U.S. Highway 283.

Thence south along U.S. Highway 283 to intersection U.S. Highway 283 and Interstate Highway 70; thence west along Interstate Highway 70 to Oakley, Kans.; thence west along U.S. Highway 40 to intersection U.S. Highway 40 and U.S. Highway 287; thence south along U.S. Highway 287 to intersection U.S. Highway 287 and Colorado Highway 96; thence west along Colorado Highway 96 to Ordway, Colo.; thence south along Colorado Highway 71 to Rocky Ford, Colo.; thence west along U.S. Highway 50 to Pueblo, Colo.; thence south along Interstate Highway 25 to Walsenburg, Colo.; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 550; thence south along U.S. Highway 550 to intersection U.S. Highway 550 and New Mexico Highway 504; thence west along New Mexico Highway 504 to intersection New Mexico Highway 504 and U.S. Highway 160; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 89; thence south along U.S. Highway 89 to intersection U.S. Highway 89 and Interstate Highway 40; thence west along Interstate Highway 40 to Needles, Calif.; thence south along U.S. Highway 95 to intersection U.S. Highway 95 and California Highway 62; thence west along California Highway 62 to intersection California Highway 62 and Interstate Highway 10; thence east along Interstate Highway 10 to intersection Interstate Highway 10 and California Highway 86; thence south along California Highway 86 to intersection California Highway 86 and California Highway 78; thence west along California Highway 78 to intersection California Highway 78 to California Highway 79; thence south along California Highway 79 to intersection California Highway 79 and U.S. Highway 80; thence west along U.S. Highway 80 to the west coast of California at or near San Diego,

Calif.; and points in Kentucky on and east of Alternate U.S. Highway 41 from the Tennessee-Kentucky State Boundary line to the Kentucky-Indiana State Boundary line. The purpose of this filing is to eliminate a gateway at the Tech-Panel Corporation at or near Springfield, Ky.

(4) Fibreboard and fibreboard products and accessories and supplies used in the installation thereof, from the plant-sites of the Masonite Corporation at Laurel, Miss., to points in the United States on and north of a line beginning at the east coast of Maryland, at or near Ocean City, Md.; thence west along U.S. Highway 50 to intersection U.S. Highway 50 and U.S. Highway 211; thence west along U.S. Highway 211 to intersection U.S. Highway 211 and U.S. Highway 11; thence south along U.S. Highway 11 to Lexington, Va.; thence west along U.S. Highway 60 to intersection U.S. Highway 60 and U.S. Highway 19; thence south along U.S. Highway 19 to Beckley, W. Va.; thence south along West Virginia Highway 16 to intersection West Virginia Highway 16 and U.S. Highway 52; thence west along U.S. Highway 52 to the West Virginia-Kentucky State Boundary line; thence north along the West Virginia-Kentucky State Boundary line to the Ohio State Boundary line; thence west along the Kentucky-Ohio State Boundary line to the Indiana State Boundary line; thence southwest along the Indiana-Kentucky State Boundary line to a point on the Kentucky-Indiana State Boundary line at or near Louisville, Ky.; thence west along U.S. Highway 150 to Vincennes, Ind.; thence west along U.S. Highway 50 to intersection U.S. Highway 50 and Illinois Highway 130; thence north along Illinois Highway 130 to intersection Illinois Highway 130 and Illinois Highway 33; thence west along Illinois Highway 33 to intersection Illinois Highway 33 and Illinois Highway 128; thence north along Illinois Highway 128 to intersection Illinois Highway 128 and Illinois Highway 16; thence west along Illinois Highway 16 to intersection Illinois Highway 16 and Illinois Highway 29; thence north along Illinois Highway 29 to Springfield, Ill.; thence north along Illinois Highway 125 to intersection Illinois Highway 125 and U.S. Highway 67; thence north along U.S. Highway 67 to intersection U.S. Highway 67 and Illinois Highway 9.

Thence west along Illinois Highway 9 to Fort Madison, Iowa; thence west along Iowa Highway 2 to intersection Iowa Highway 2 and U.S. Highway 63; thence north along U.S. Highway 63 to intersection U.S. Highway 63 and U.S. Highway 34; thence north along U.S. Highway 34 to Osceola, Iowa; thence south along U.S. Highway 69 to intersection U.S. Highway 69 and Iowa Highway 2; thence west along Iowa Highway 2 to Nebraska City, Neb.; thence south along U.S. Highway 75 to Auburn, Neb.; thence west along U.S. Highway 136 to intersection U.S. Highway 136 and U.S. Highway 81; thence south along U.S. Highway 81 to intersection U.S. Highway

81 and U.S. Highway 24; thence west along U.S. Highway 24 to intersection U.S. Highway 24 and U.S. Highway 283; thence south along U.S. Highway 283 to junction U.S. Highway 283 and Interstate Highway 70; thence west on Interstate Highway 70 to Oakley, Kans.; thence west along U.S. Highway 40 to intersection U.S. Highway 40 and U.S. Highway 287; thence south along U.S. Highway 287 to intersection U.S. Highway 287 and Colorado Highway 96; thence west along Colorado Highway 96 to Ordway, Colo.; thence south along Colorado Highway 71 to Rocky Ford, Colo.; thence west along U.S. Highway 50 to Pueblo, Colo.; thence south along Interstate Highway 25 to Walensburg, Colo.; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 550; thence south along U.S. Highway 550 to intersection U.S. Highway 550 and New Mexico Highway 504; thence west along New Mexico Highway 504 to intersection New Mexico Highway 504 and U.S. Highway 160; thence west along U.S. Highway 160 to intersection U.S. Highway 160 and U.S. Highway 89; thence south along U.S. Highway 89 to intersection U.S. Highway 89 and Interstate Highway 40; thence west along Interstate Highway 40 to Needles, Calif.

Thence south along U.S. Highway 95 to intersection U.S. Highway 95 and California Highway 62; thence west along California Highway 62 to intersection California Highway 62 and Interstate Highway 10; thence east along Interstate Highway 10 to intersection Interstate Highway 10 and California Highway 86; thence south along California Highway 86 to intersection California Highway 86 and California Highway 78; thence west along California Highway 78 to intersection California Highways 78 and 79; thence south along California Highway 79 to intersection California Highway 79 and U.S. Highway 80; thence west along U.S. Highway 80 to the west coast of California at or near San Diego, Calif. and points in Kentucky on, north and east of a line beginning at the Tennessee-Kentucky State Boundary line, and extending along Alternate U.S. Highway 41 to intersection Alternate U.S. Highway 41 and Kentucky Highway 117; thence along Kentucky Highway 117 to intersection Kentucky Highway 117 and Kentucky Highway 272; thence along Kentucky Highway 272 to intersection Kentucky Highways 272 and 139; thence over Kentucky Highway 139 to intersection Kentucky Highways 139 and 93 at Eddyville, Ky.; thence along U.S. Highway 62 to Paducah, Ky.; thence along U.S. Highway 60 to the Kentucky-Illinois State Boundary line; and points in Illinois and Missouri. The purpose of this filing is to eliminate gateways at the Celotex Corporation at Birmingham, Ala. and the Tech-Panel Corporation at or near Springfield, Ky. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue

of December 9, 1974; and is directly related to MC-F-12443 published in the FEDERAL REGISTER issue of March 5, 1975.

No. MC 133646 (Sub-No. 19), filed March 21, 1975. Applicant: YELLOW-STONE MOLASSES SERVICE, INC., P.O. Box 404, Billings, Mont. 59103. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Steel fabricated items*, from Billings, Mont., to points in North Dakota, South Dakota, Wyoming, Idaho and Utah.

NOTE: By the instant application, applicant seeks to convert contract carrier authority it is seeking to acquire to common carrier authority. This a matter directly related to a Section 5 proceeding in MC-F-12439 published in the FEDERAL REGISTER issue of April 23, 1975. If a hearing is deemed necessary, the applicant requests it be held at Billings, Mont.

No. MC-F-12482 (KERR MOTOR DELIVERY, INC.), published in the April 23, 1975, issue of the FEDERAL REGISTER. Application filed April 25, 1975, for temporary authority under section 210a (b).

No. MC-F-12501. Authority sought for purchase by EDSON EXPRESS, INC., P.O. Box 925, Longmont, Colo. 80501, of the operating rights and property of GOLDEN INDUSTRIAL SERVICES, INC., 15045 W. 44th Avenue, Golden, Colo. 80401, and for acquisition by JACK E. EDSON, AND MARJORIE J. EDSON, both of 1270 Boston, Longmont, Colo. 80501, of control of such rights through the purchase. Applicants' attorneys: John P. Thompson and Susan E. Ayer, 450 Capitol Life Center, Denver, Colo. 80203. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC 135850 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Colorado. Vendee is authorized to operate as a common carrier in Colorado. Application has been filed for temporary authority under section 210a (b).

No. MC-F-12506. Authority sought for purchase by KEIM TRANSPORTATION, INC., 420 North Sixth Street, (R.F.D. 2, Box 10), Sabetha, Kans. 66534, of a portion of the operating rights of ROMANS DRYWALL EXPRESS, INC., R.R. No. 1, Yutan, Nebr. 68073, and for acquisition by GLEN L. KEIM, DEEANN KEIM, AND BERT H. KEIM, all of 420 Sixth Street, Sabetha, Kans. 66534, of control of such rights through the purchase. Applicants' attorney: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Operating rights sought to be transferred: *Plasterboard, plaster products, and metal lath, clips, nails, and miscellaneous building materials*, used with, or in the installation of plasterboard and plaster products, as a common carrier over irregular routes, from Blue Rapids and Medicine Lodge, Kans., to points in Nebraska, except no service to be performed to Ash-

land, Auburn, Beatrice, Blue Springs, Boys Town, Cortland, Eagle, Greenwood, Gretna, Julian, La Platte, Murray, Myrard, Nebraska City, Offutt Air Force Base, Omaha, Pickrell, Plattsmouth, Princeton, Ralston, Union, Waverly, Weco, Wymore and Wyoming, Nebr. Vendee is authorized to operate as a *common carrier* in Kansas, Nebraska and Missouri.

NOTE.—MC 2095 (Sub-No. 2), is a matter directly related.

No. MC-F-12507. Authority sought for purchase by CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68528, of the operating rights of HILL TRUCKING COMPANY, 928 West Main Street, Johnson City, Tenn. 37601, and for acquisition by DUANE W. and PHYLLIS A. ACKLIE, 2200 Woodsdale, Lincoln, Nebr. 68502, of control of such rights through the purchase. Applicants' attorney: Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501. Operating rights sought to be transferred: *Malt beverages*, as a *common carrier*, over irregular routes, from Atlanta, Ga., to Johnson City, Tenn., from Peoria, Ill., to Johnson City, Knoxville, and Bristol, Tenn., and Bristol, Va., from Belleville, Ill., to Knoxville, Tenn., from Baltimore, Md., and Evansville, Ind., to Johnson City, Tenn., from Evansville and South Bend, Ind., and Detroit, Mich., and Louisville and Newport, Ky., to Knoxville, Tenn., from Louisville and Newport, Ky., to Johnson City, Tenn., from Cincinnati, Ohio and Milwaukee, Wis., to Johnson City and Knoxville, Tenn., from Newark, N.J., to Bristol and Norton, Va., from Port Wayne, Ind., to St. Louis, Mo., and New Orleans, La., to Johnson City, Tenn., and Bristol, Va., from Baltimore, Md., and Louisville, Ky., to Bristol, Va., from Latrobe, Pa., to points in Kentucky and Tennessee; *bananas*, from Charleston, S.C., to Johnson City, Tenn.; *papers and pimientos*, in cans or barrels, from the plant site of Moody Dunbar, Inc., near Limestone, Tenn., to points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line, except points in Alabama, Georgia, Florida, South Carolina, and Tennessee. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12508. Authority sought to be purchased by SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4284 Mission Boulevard, Pomona, Calif. 91769, of the operating rights of SEQUOYAH TRANSPORTATION COMPANY, INC., P.O. Box 1121, Oklahoma City, Okla. 73125, and for acquisition by CLYDE FULLER, P.O. Box 2171, Fort Oglethorpe, Ga. 30741, of control of such rights through the purchase. Applicants' attorney: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Operating rights sought to be transferred: *Carpeting, carpet paddings, yarn, new furniture, and lamps*, as a *contract carrier* over irregular routes, from Wapata, Wash., Houston, Tex., and points in Oklahoma, to points in the United States, except Alaska and Hawaii; and supplies, materials, and equipment used in the manufacture and production and shipment of the above-named commodities, from points in the United States, except Alaska and Hawaii, to the above-named origin points. Vendee is authorized to operate as a *contract carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12509. Authority sought for purchase by WARN BROS., INC., doing business as CRESCENT TRUCK LINES, 2480 Whipple Road, Hayward, Calif. 94544, of a portion of the operating rights and property of GOLDEN WEST FREIGHT LINES, 1300 Roberts Lane, Bakersfield, Calif. 93308, and for acquisition by FRANK J. WARN AND GEORGE R. WARN, both of Hayward, Calif. 94544, of control of such rights and property through the purchase. Applicants' attorneys: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111, and Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC 88310 (Sub-No. 4), covering the transportation of general commodities, as a *common carrier* in interstate commerce, within the State of California. Vendee is authorized to operate as a *common carrier* in California. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12510. Authority sought for control by IMPERIAL VAN LINES, INC., P.O. Box 2917, Torrance, CA 90503, of MARTIN VAN LINES, INC. (Joseph O. Earp, Trustee), 2805 Columbia St., Torrance, CA 90503, and for acquisition by IMPERIAL INTERNATIONAL, INC., and D. E. ROWE, both of Torrance, CA 90503, of control of MARTIN VAN LINES, INC. (Joseph O. Earp, Trustee), through the acquisition by IMPERIAL VAN LINES, INC. Applicants' attorney: Alan F. Wohlstetter, 1700 K St., N.W., Suite 301, Washington, DC 20006. Operating rights sought to be controlled: *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, from points in Yellowstone, Stillwater, Sweet Grass, Park, Wheatland, Fergus, Musselshell, Golden Valley, Petroleum, Big Horn, and Carbon Counties, Mont., to points in Wyoming, Colorado, Idaho, Utah, Oregon, and Washington, from points in Wyoming, Colorado, Idaho, Utah, Oregon, and Washington, to all points in Montana, between points in Rosebud, Custer, and Treasure Counties, Mont., except Forsyth, Mont., on the one hand, and, on the other, points in Montana more than 125 miles from Forsyth, and those

in Minnesota, South Dakota, North Dakota, Wyoming, Idaho, and Washington, between points in California, Oregon, and Washington, between points in Douglas, Klamath, Jackson, Josephine, Coos, and Curry Counties, Oreg., on the one hand, and, on the other, points in Idaho and Nevada; *general commodities*, excepting among others, Class A and B explosives, household goods, and commodities in bulk, between points within three miles of Portland, Oreg., including Portland. IMPERIAL VAN LINES, INC., is authorized to operate as a *common carrier*, in Georgia, Alabama, Arkansas, Delaware, Florida, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Nebraska, Maine, New Hampshire, Vermont, Connecticut, Colorado, Iowa, Kansas, Minnesota, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[PR Doc.75-12004 Filed 5-6-75; 8:45 am]

[Notice 285]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 2, 1975.

Synopses of orders entered by the the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 22, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75679. By order of April 30, 1975, the Motor Carrier Board approved the transfer to Inland Freight Lines, a corporation, Orange, Calif., of the operating rights in Certificate of Registration No. MC-5178 (Sub-No. 2) issued March 30, 1964, to M.A.P., Inc., Midway City, Calif., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of intrastate authority in Decision No. 55894, dated December 3, 1957, as

amended by Decision No. 63054, dated January 9, 1962, and transferred to transferor by Decision No. 63970 dated July 17, 1962. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Attorney for applicants.

No. MC-FC-75719. By order of April 30, 1975, the Motor Carrier Board approved the transfer to Arrow Transfer Company, Inc., Alexandria, Va., of the operating rights in Certificate No. MC-123378 issued March 18, 1968, to Astro Van Pak, Inc., Alexandria, Va., authorizing the transportation of household goods as defined by the Commission (1) between points in New York, Pennsylvania, New Jersey, Rhode Island, Connecticut, Delaware, Maryland, and the District of Columbia; (2) between points in these named States and the District of Columbia, on the one hand, and, on the other, points in 19 other eastern states; (3) between Philadelphia, Pa., on the one hand, and, on the other, points in Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Ohio, and the District of Columbia; and (4) between points in North Carolina and Virginia. Philip F. Hudock, 7900 Westpark Drive, Suite 506, McLean, Va. 22101. Attorney for applicants.

No. MC-FC-75781. By order of April 30, 1975, the Motor Carrier Board approved the transfer to Grant H. Scully, Jr., doing business as Sunway Lines, Oakland, Calif., of the operating rights in Certificate No. MC-134297 (Sub-No. 1) issued May 10, 1974, to Leo L. Loh, doing business as Loh Enterprises, Oakland, Calif., authorizing the transportation of used household goods between points in San Francisco, San Mateo, Santa Clara, Contra Costa, and Alameda Counties, Calif. Leigh B. Morris, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11997 Filed 5-6-75; 8:45 am]

[Notice 49]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 30, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the ap-

plicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 423TA), filed April 22, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic products*, from Monticello, Iowa, to points in Atlanta, Ga.; Jackson, Miss.; Greenville, S.C.; and Hialeah, Jacksonville, Lakeland, Miami, and Orlando, Fla., for 180 days. Supporting shipper: Menasha Corporation, P.O. Box 367, Neenah, Wis. 54956. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 51146 (Sub-No. 424TA), filed April 22, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Containers, container closures, container components, and materials and supplies used in the sale, manufacture, or distribution of containers*, from the plantsite of American Can Company, located in Edison, N.J., to points in Milwaukee, Wis., for 180 days. Supporting shipper: American Can Company, 915 Harger Lane, Oak Brook, Ill. Send protests to: John E. Ryden, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 108393 (Sub-No. 89TA), filed April 21, 1975. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60148. Applicant's representative: Eugene L. Cohn, 1 North La Salle St., Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances and equipment, materials and supplies used in the manufacture, distribution and repair of electrical and gas appliances*; between Vandalla, Ill., on the one hand, and, on the other, Clyde, Ohio and St. Joseph, Mich., for 180 days. Supporting shipper: Whirlpool Corporation, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: William J. Gray, District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 111729 (Sub-No. 526TA) (Correction), filed March 27, 1975, published in the FEDERAL REGISTER issue of April 11, 1975, and republished as corrected this issue. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (4) *Drugs, narcotics, pharmaceuticals, toiletries, sundries, proprietaries, and other items related to drug stores and hospitals*, restricted against the transportation of articles or packages weighing more than 50 pounds per shipment or 100 pounds in the aggregate, from one consignor to one consignee on any one day, between Toledo, Ohio, on the one hand, and, on the other, points in Allen, DeKalb, Elkhart, Kosciusko, LaGrange, Nobel, Steuben, and Whitley Counties, Ind.; and Branch, Genesee, Hillsdale, Ingham, Jackson, Kent, Lenawee, McComb, Monroe, Oakland, St. Joseph, and Washtenaw Counties, Mich., for 180 days. Supporting shippers: (1) Beckett Aviation Corporation, Municipal Airport, Youngstown, Ohio. (2) Hillsdale Tool & Manufacturing Co., 135 E. South St., Hillsdale, Mich. (3) International Business Machines Corporation, P.O. Box 10, Princeton, N.J. (4) Walding, Kinnan & Marvin, 3145 Nebraska Ave., Toledo, Ohio. Send protests to: Anthony D. Giamo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007. The purpose of this republication is to add Kent County, Mich., which was omitted in the previous publication, and to correct the spelling of McComb County, Mich. The rest of the application will remain the same as previously published.

No. MC 114194 (Sub-No. 180TA), filed April 21, 1975. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62202. Applicant's representative: A. Bruce Fraser (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid yeast*, in bulk, in tank vehicles, from Ft. Wayne, Ind., to points in Columbus, Ohio, for 180 days. Supporting shipper: Frank C. Becht, General Traffic Manager, Falstaff Brewing Corporation, 5050 Oakland Avenue, St. Louis, Mo. 63166. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 241B, Springfield, Ill. 62705.

No. MC 115496 (Sub-No. 34TA), filed April 21, 1975. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Waste paper in machine compressed bales or containers*, from points in Alabama, Florida, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, to points in Georgia, for 180 days. Supporting shippers: Bilman

Paper Company, P.O. Box 520, St. Marys, Ga. 31558. Union Camp Corporation, P.O. Box 570, Savannah, Ga. 31402. Great Southern Paper Company, P.O. Box 44, Cedar Springs, Ga. 31732. Send protests to: William L. Scroggs, District Supervisor, 1252 West Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 115592 (Sub-No. 3TA), filed April 22, 1975. Applicant: VERNON JENNIGES, doing business as JENNIGES TRANSFER, Springfield, Minn. 56087. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay products*, from Springfield, Minn., to points in Nebraska, for 180 days. Supporting shipper: Ochs Brick & Tile Company, Springfield, Minn. 56087. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119798 (Sub-No. 3TA), filed April 15, 1975. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, W. Va. 24701. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food stuffs, including fresh meats and packinghouse products* as described in 61 M.C.C. 209, from the warehouse facilities of Southwest Supply, Inc., Bluefield, W. Va., to points in Monroe, Nicholas, Pocahontas and Webster Counties, W. Va.; Wise, Washington, Russell, Lee, Dickinson, Scott, Smyth, Roanoke and Grayson Counties, Va., and Pike, Floyd, and Martin County, Ky., for 180 days. Supporting shipper: George A. Hormel & Co., P.O. Box 367, Austin, Minn. 55912. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 119897 (Sub-No. 20TA), filed April 21, 1975. Applicant: A-1 TRANSPORTATION COMPANY, 3102 Maury Street, Houston, Tex. 77026. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wellpoint equipment, machinery, materials, and supplies* (except commodities in bulk, and except commodities described in the report in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459), between the plant site and storage facilities of Moretrench American Corp., located at or near Tomball, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Moretrench American Corporation, P.O. Box 658, Tomball, Tex. 77375. Send protests to: John Mensing, District Supervisor, In-

terstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 135185 (Sub-No. 24TA), filed April 21, 1975. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Avenue, P.O. Box 22198, Denver, Colo. 80222. Applicant's representative: Charles J. Kimball, Suite 646 Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring and washing compounds, polishing and buffing compounds, disinfectants, deodorants, drugs and toilet preparations, insecticides, other household cleaning supplies, chemicals, hydraulic cement, sand, coal tar, adhesive tape, plastic synthetics, paint solvents, rubber cement, caulking and brazing compounds, varnish, paints (liquid, paste or dry), phosphoric acid and titanium dioxide, and materials, equipment and supplies used in the manufacture and distribution of the above-described commodities*, (1) from the plant site and storage facilities utilized by Lehn & Fink Products Co., a Division of Sterling Drug, Inc., at or near Lincoln and Decatur, Ill., to points in Wyoming, Montana, Arizona, Utah, Nevada, Idaho, Washington, Oregon, California, Colorado, and New Mexico; (2) from the plant site and storage facilities utilized by Lehn & Fink Products Co., a Division of Sterling Drug, Inc., at or near Lincoln and Decatur, Ill., and Toledo, Ohio, to points in Houston, Tex., under a continuing contract or contracts with Lehn & Fink Products Co., a Division of Sterling Drug, Inc., for 180 days. Supporting shipper: Lehn & Fink Products Co., a Division of Sterling Drug Co., 255 Summit Avenue, Montvale, N.J. 07645. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 1961 Stout Street, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 139091 (Sub-No. 9TA), filed April 21, 1975. Applicant: LOGAN MOTOR LINES, INC., Route 2, Box 174A, Canyon, Tex. 79015. Applicant's representative: Gaylon Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Vacuum bottles, and fillers, lunch and picnic boxes and kits, containers, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling chests, boxes and chests, tents, display racks and insulating material*, (1) from the plant sites and storage facilities of King-Seeley Thermos Co., at or near Norwich, Conn., and Macomb, Ill., to points in San Francisco, Sacramento, Los Angeles, San Diego, Stockton, El Monte, Compton, Fremont, Oakland, San Leandro, Buena Park, Hayward and Santa Fe Springs, Calif.; Sparks and Reno Nev.; Phoenix, Ariz.; and the storage facilities of King-Seeley Thermos Co., at or near Anaheim, Calif.; and (2) from the storage facilities of King-Seeley Thermos Co., at or near Anaheim, Calif. to the plant sites and storage facilities of King-Seeley Thermos Co., at or near Macomb, Ill., and Nor-

wich, Conn. 16360. Send protests to: shipper: King-Seeley Thermos Co., Norwich, Conn. 16360. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 139164 (Sub-No. 1TA), filed April 18, 1975. Applicant: JONES BROTHERS TRUCKING, INC., 780 Tenth St. NW., New Brighton, Minn. 55112. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Breakfast cereal and cereal aggregates*, from Lakeville, Minn., to all points in the United States (except Alaska and Hawaii); *materials and supplies used in the manufacture and distribution of breakfast cereals and commodities*, the transportation of which is partially exempt under Section 203(b)(6) of the Interstate Commerce Act when moving with the above-named commodities (except commodities in tank vehicles), from points in the United States (except Alaska and Hawaii) to Lakeville, Minn. for 180 days. Supporting shipper: The Grist Mill Co., 21325 Hamburg Ave., Lakeville, Minn. 55044. Send protests to: Raymond T. Jones, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 140867TA, filed April 16, 1975. Applicant: DOUGLAS A. DHUSE AND DAVID B. DHUSE, doing business as DHUSE TRUCKING, 208 East Maine Street, Yorkville, Ill. 60580. Applicant's representative: Douglas A. Dhuse (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Expansion joints* (a fabricated steel and rubber product), from Lockport, Ill., to points in Wilsonville, Ala.; Oswego, N.Y.; LaCygne, Kans.; Pensacola, Fla.; New Richmond, Ohio; Ghent, Ky.; and Lansing, Iowa, for 180 days. Supporting shipper: Dearborn Rubber Corporation, 2545 S. 25th Avenue, Broadview, Ill. 60153. Send protests to: William J. Gary, District Supervisor, Interstate Commerce Commission, 219 S. Dearborn St., Everett McKinley Dirksen Bldg., Chicago, Ill. 60604.

No. MC 140869TA, filed April 21, 1975. Applicant: KERRI TRUCKING, INC., 162 Closter Rock Road, Closter, N.J. 07624. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Balsa plywood prefabricated insulation panels*, from Central Valley, N.Y., to points in Avondale, La., for 180 days. Supporting shipper: Cryogenic Structures Corp., P.O. Box 195, Northvale, N.J. 07647. Send protests to: Joel Morrrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.Y. 07102.

No. MC 140074 (Sub-No. 3TA), filed April 18, 1975. Applicant: WALDO W. WILLIAMS, doing business as TRIPLE W TRANSPORT, Route 2, Missoula, Mont. 59801. Applicant's representative: Jerome Anderson, 404 North 31st St., Billings, Mont. 59101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from the Sawmill facility of North Fork Lumber, Inc., located on U.S. Highway 93 between North Fork and Gibbonsville, Idaho, to the Hoerner Waldorf plant site, located approximately 13 miles west of Missoula, Mont., for 180 days. Supporting shipper: Hoerner Waldorf Corporation, Drawer D, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 140875TA, filed April 15, 1975. Applicant: LONGVIEW HAULING, INC., 2401 Cavitt, P.O. Box 3955, Bryan, Tex. 77801. Applicant's representative: E. Larry Wells, 4645 North Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Brewer's grains, liquid brewer's yeast, concentrated spent, brewer's grain liquid, and brewer's grain fortified with other grains, minerals and supplements (maltage)* in bulk, from Longview, Tex., to points in Louisiana, Arkansas and Oklahoma, for 180 days. Supporting shipper: Murphy Products Company, Inc., 1240 Dodge Street, Burlington, Wis. 53105. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 140876TA, filed April 18, 1975. Applicant: J. H. J. INC., P.O. Box 616, Wells, Nev. 89835. Applicant's representative: Charles H. Johns (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ore*, between points in Nevada within 75 miles of Wells, Nev., for 180 days. Supporting shipper: Egger Beaver Mining Co., Corporation, P.O. Box 616, Wells, Nev. 89835. Send protests to: Robert G. Harrison, District Supervisor, 203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.

No. MC 140877TA, filed April 18, 1975. Applicant: DAN HUTCHENS WRECKER SERVICE, INC., 1554 Cedar Grove Road, Conley, Ga. 30027. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Disable or replacement trucks, tractors and/or trailers by towing vehicles, by means of crane, hoist, towbar, towline or dolly by use of wrecker equipment*, between points in Georgia on the one hand, and on the other hand, points in Alabama, Arkansas, Delaware, the District of Columbia, Florida, Illinois, Indiana, Kansas, Louisiana, Kentucky, Maryland, Mississippi, Missouri, New

Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia, for 180 days. Supporting shippers: Carolina Freight Carriers Corp., 1140 South River Industrial Blvd., S.E., Atlanta, Ga. 30354. Bowman Transportation, Inc., 2161 Moreland Ave., S.E., Atlanta, Ga. 30315. McLean Trucking Co., 2800 Forrest Park Road, S.E., Atlanta, Ga. 30354. Send protests to: William L. Scroggs, District Supervisor, 1252 West Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 140878TA, filed April 21, 1975. Applicant: SOUTHSIDE TRUCKING CO., INC., 401 Murry's Avenue, Alexandria, Va. 22301. Applicant's representative: Henry U. Snively, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Heating, air-conditioning and plumbing equipment, materials, supplies, parts, and accessories*, between points in Delaware, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Automatic Equipment Sales of Virginia, Inc., of Richmond, Va., for 180 days. Supporting shipper: Automatic Equipment Sales of Virginia, Inc., 3600 Saunders Ave., Richmond, Va. 23229. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th & Constitution Ave. NW., Room 317, Washington, D.C. 20423.

No. MC 140879TA, filed April 21, 1975. Applicant: RALPH OWENS, P.O. Box 711, Hereford, Tex. 79045. Applicant's representative: John C. Sims, P.O. Box 2976, Lubbock, Tex. 79408. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from Finney County, Kans., to all points in Texas, for 180 days. Supporting shippers: Big T Pump Company, P.O. Box 827, Hereford, Tex. 79045. Winget Pump Company, 211 Avenue J, Hereford, Tex. 79045. Kenny Gearn Machine Works, Box 1635, Hereford, Tex. 79045. Wall & Sons Drilling, Box 1815, Hereford, Tex. 79045. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 140880TA, filed April 22, 1975. Applicant: JOSEPH JENNARO AND GEORGE KROCOS, a partnership, 2332 South Peck Road, Whittier, Calif. 90601. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Foundry compounds and supplies, viz., core compounds, foundry facings, abrasives, fluxes, chemicals, alloys, and ceramic parts*, from Georgetown and Danville, Ill.; Cleveland, Columbus, Hamilton and Ashtabula, Ohio; Milwaukee, Wis.; and Muse, Pa.; to points in Vernon and City of Commerce, Calif., for 180 days. Supporting shippers:

Independent Foundry Supply Co., 6463 East Canning, City of Commerce, Calif. 90049. Casting Material Co., Inc., 4614 South Hampton St., Vernon, Calif. 90058. C & R Supply Company, 4614 S. Hampton St., Vernon, Calif. 90058. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 140881TA, filed April 22, 1975. Applicant: JACK YOUNG AND IDA L. YOUNG, a partnership, doing business as J & L TRUCK LINES, P.O. Box 1238, Silsbee, Tex. 77656. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wood chips, bark wood-waste and sawdust* (except in bulk, in tank vehicles), between the plant site and warehouse facilities of General Box Division, Southwest Forest Industries at or near DeQuincy, La., on the one hand, and, on the other, points in Chambers, Hardin, Harris, Jasper, Jefferson, Liberty, Newton, Orange, Sabine, and Tyler Counties, Tex., for 180 days. Supporting shipper: General Box Division, Southwest Forest Industries, P.O. Box 997, DeQuincy, La. 70633. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 75-11998 Filed 5-6-75; 8:45 am]

[Notice 50]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 1, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commis-

sion, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2642 (Sub-No. 3TA), filed April 25, 1975. Applicant: STANDARD TRANSPORTATION CO., INC., 290 Armistice Blvd., Pawtucket, R.I. 02861. Applicant's representative: Randall D. Weis, 5020 Spring Grove Ave., Cincinnati, Ohio 45232. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, between the plantsites of Saylesville Warehouse, Inc., located in Saylesville, Ashton, and Pawtucket, R.I., on the one hand, and, on the other, all points in New Hampshire, for 180 days. Supporting shippers: M & M/Mars, a division of Mars, Incorporated, High St., Hackettstown, N.J. 07840. The Drackett Products Company, 5020 Spring Grove Avenue, Cincinnati, Ohio 45232. Lever Brothers Company, 390 Park Ave., New York, N.Y. 10022. Saylesville Warehouse, Inc., Moshassuck Industrial Park Saylesville, R.I. Textile Chemicals Co., P.O. Box 368, Greenville, S.C. 29602. Send protests to: Gerald H. Curry, District Supervisor, 187 Westminster St., Providence, R.I. 02903.

No. MC 52460 (Sub-No. 173TA), filed April 23, 1975. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products and meat by-products and articles distributed by meat packing-houses, as described in Sections A and C of Appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Missouri, restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., H. L. Dennison, GTM, P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: Marie Spillars, Bureau of Operations, Interstate Commerce Commission, Room 240 Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 63417 (Sub-No. 74TA), filed April 24, 1975. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from Jacksonville, Fla., and its commercial zone, to points in Arkansas, Delaware, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and the District of Columbia, for 180 days. Supporting shipper: American Modular Furni-

ture Corporation, 15500 Phillips Highway, Route 8, Box 72, Jacksonville, Fla. 32224. Send protests to: Danny R. Beller, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Ave. SW., Roanoke, Va. 24011.

No. MC 107295 (Sub-No. 763TA), filed April 21, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Richard D. Vollmer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Asphalt sealer, blacktop dressing, grease shield, asphalt surface patch, crack and joint filler, tar remover, ceramic grit, cement patch and accessories, restricted against the transportation of commodities in bulk, from Columbus, Ohio to points in Indiana, Illinois, Missouri and Wisconsin, for 180 days. Supporting shipper: Fred Smetana, President, Asphalt Sealer Products Co., 780 King Ave., Columbus, Ohio 43212. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 241B, Springfield, Ill. 62705.

No. MC 107515 (Sub-No. 979TA), filed April 21, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Bananas; (2) bananas, when transported in mixed loads with commodities exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act from Brownsville, Hidalgo, Laredo, McAllen, Rio Grande, and Roma, Tex., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee (Memphis only), Texas, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Fisher Bros., Inc., FBI Foods, Ltd., Fisher Bros., (U.S.A.), Inc., 1610 DeBeauharnois, Montreal, Quebec H4N 1J5. Send protests to: William L. Scroggs, District Supervisor, 1252 West Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 108380 (Sub-No. 86TA), filed April 22, 1975. Applicant: JOHNSTON'S FUEL LINERS, INC., P.O. Box 100, Newcastle, Wyo. 82701. Applicant's representative: Curtis H. Wineteer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Coal and coal by-products, between points in Wyoming, Colorado, Montana, North Dakota, South Dakota, and Nebraska, for 180 days. Supporting shipper: Pete Lien & Sons, Inc., P.O. Box 440, Rapid City, S. Dak. 57701. Send protests to: Paul A. Naughton, District Supervisor, Room 1006 Federal Bldg., & Post

Office, 100 East "B" Street, Casper, Wyo. 82601.

No. MC 111045 (Sub-No. 125TA), filed April 25, 1975. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, in bulk, in tank vehicles, (1) from points in Santa Rosa County, Fla., to points in Alabama, Georgia, Louisiana and Mississippi; (2) from points in Escambia County, Ala., to points in Florida, Georgia, Louisiana and Mississippi, for 180 days. Supporting shipper: Exxon Company, U.S.A., P.O. Box 2180, Houston, Tex. 77001. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Bldg., Suite 208, 5255 NW. 87th Ave., Miami, Fla. 33178.

No. MC 111717 (Sub-No. 26TA), filed April 24, 1975. Applicant: TRACTOR TRANSPORT, INC., 535 South 84th Street, Milwaukee, Wis. 53214. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Tractors (except truck tractors) and parts, implements, attachments, accessories and supplies, therefore, when moving incidentally thereto as part of the same shipment, from Norfolk, Va., to points in the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Tennessee, Kentucky, Indiana, Michigan, Ohio, Pennsylvania, Maryland, West Virginia, Delaware, Virginia and North Carolina, for 180 days. Supporting shipper: Allis Chalmers Manufacturing Company, West Allis, Wis. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 112453 (Sub-No. 4TA), filed April 21, 1975. Applicant: LESTER CRAIN, P.O. Box 507, Dove Creek, Colo. 81324. Applicant's representative: Dilts, Wilson & Dyer, 200 West Main Street, Cortez, Colo. 81321. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Uranium and vanadium ores, in bulk, from points in Dolores, San Miguel and Montrose Counties Colo., to points Moab, Utah, for 180 days. Supporting shippers: Dawson Mining Company, P.O. Box 428, Grande Junction, Colo. 81501. Fritz-Erickson Mining Co., Inc., P.O. Box 547, Dove Creek, Colo. 81324. Look Mining Company, Box 322, Blanding, Utah. Robinett Tractor, Box 168, Dove Creek, Colo. 81324. Dillon Mining, Egnar, Colo. 81325. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 1961 Stout St., 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 113855 (Sub-No. 316TA), filed April 25, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn.

58102. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes and motor vans*, from San Jose, Calif., to points in Grand Rapids, Mich., for 180 days. Supporting shipper: Bizi Bodi Recreation Vehicles, Inc., 2345 Paragon Drive, San Jose, Calif. 95131. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115814 (Sub-No. 13TA), filed April 22, 1975. Applicant: MARK TRUCKING, INC., Trella Street, P.O. Box 869, Belleville, Pa. 17004. Applicant's representative: James W. Hagar, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), and *dairy products*, in bulk, from Belleville, Pa., to points in Kingwood, W. Va., restricted to operations under a continuing contract or contracts with Abbotts Dairies, Division of Fairmont Food Corporation, for 180 days. Supporting shipper: Abbotts Dairies, Inc., Belleville, Pa. 17004. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 118318 (Sub-No. 27TA), filed April 18, 1975. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Box 422, Twin Falls, Idaho 83301. Applicant's representative: Kenneth G. Bergquist, 307 Sonna Building, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Canyon County, Idaho to points in Nevada, for 180 days. Supporting shippers: H. H. Keim Company Ltd., P.O. Box 388, Nampa, Idaho 83651. Armour Food Company, 111 W. Clarendon, Phoenix, Ariz. 85077. Idaho Meat Packers, Inc., P.O. Box 550, Caldwell, Idaho 83605. Send protests to: C. W. Campbell, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 118535 (Sub-No. 66TA), filed April 25, 1975. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry corn products*, in bulk, from Kansas City, Mo., to points in Illinois, Indiana, Kentucky, Louisiana, Minnesota, Ohio, Ten-

nessee, Texas and Wisconsin, for 150 days. Supporting shipper: Tabor Milling Co., 200 West 19th Avenue, North Kansas City, Mo. 64116. Send protests to: John V. Berry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119399 (Sub-No. 50TA), filed April 25, 1975. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and related advertising matter, from St. Paul, Minn., to points in Hannibal, Mo., for 180 days. Supporting shipper: Med Park Distributing Company, 1220 Broadway, Hannibal, Mo. 63401. Send protests to: John V. Berry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 123407 (Sub-No. 235TA), filed April 25, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *flat glass and glass glazing units*, from the plant-site and warehouse facilities of Guardian Industries at Carleton, Mich., to points in Washington, Oregon, California, Nevada, Arizona, Utah, and Idaho, for 180 days. Supporting shipper: Guardian Industries Corporation, 14600 Romine Road, Carleton, Mich. 48117. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 123744 (Sub-No. 19TA), filed April 24, 1975. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: E. Steward Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground silica pebbles*, from Little Gap, Pa., to Ports of Entry on the International Border, between the United States and Canada in New York, for 180 days. Supporting shipper: North American Refractories, 1012 National City, E. 6th Bldg., Cleveland, Ohio. Send protests to: James C. Donaldson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 124796 (Sub-No. 146TA), filed April 24, 1975. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James H. Mendenhall (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except frozen

and in bulk), (1) from Charlotte, N.C., to points in South Carolina, Virginia, West Virginia; (2) from Chicago, Ill., to points in Indiana, Michigan, Wisconsin, Kentucky; (3) from Houston, Tex., to points in Arkansas (on and south of I-40), Louisiana, Mississippi; (4) from Jersey City, N.J., to points in New York, Connecticut; (5) from Los Angeles, Calif., to points in Arizona; (6) from Oakland, Calif., to points in Oregon, and Washington, for 180 days. Supporting shipper: The Clorix Company, P.O. Box 24305, Oakland, Calif. 94623. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 129455 (Sub-No. 10TA), filed April 25, 1975. Applicant: CARRETTA TRUCKING INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bathtubs, bathroom and kitchen sinks, lavatories, toilet bowls and tanks*, over irregular routes, from Ashburn, Ga., Knoxville, Tenn., Mansfield and Shelby, Ohio and Abingdon and Robinson, Ill., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, under a continuing contract or contracts with L. Grossman's, a division of Evans Products Company of Braintree, Mass., for 180 days. Supporting shipper: L. Grossman's, a division of Evans Products Co., 200 Union St., Braintree, Mass. 02184. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 133233 (Sub-No. 36TA), filed April 25, 1975. Applicant: CHARLES L. WERNER, doing business as, WERNER ENTERPRISES, 805 32d Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry macaroni products*, between Omaha, Nebr., on the one hand, and, on the other, points in Pennsylvania, under a continuing contract with Skinner Macaroni Company of Omaha, Nebr., for 180 days. Supporting shipper: Skinner Macaroni Company, George W. Boand, Traffic Manager, 6848 F. St., Omaha, Nebr. 68117. Send protests to: Carroll Russell, District Supervisor, Suite 820 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135107 (Sub-No. 4TA), filed April 23, 1975. Applicant: HIGHWAY DUMP HAULERS, INC., 70 Shamburger Lane, Box 3164, Little Rock, Ark. 72203. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, sand and gravel*, from Pulaski, Hot Spring, Clark, Pike, Howard and

Sevier Counties, Ark., to points in Louisiana, for 180 days. Supporting shippers: Caddo Quarries, P.O. Box 876, Conway, Ark. 72032. W. H. Carder, Inc., P.O. Box C, Gould, Ark. 71643. Souter Construction, P.O. Box 876, Conway, Ark. 72032. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135887 (Sub-No. 4TA), filed April 22, 1975. Applicant: VOYNE E. GLEASON, 607 LaCrosse Avenue, Coeur d'Alene, Idaho 83814. Applicant's representative: Michael D. Duppenhauer, Room 515, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Olympia, Wash., to points in Coeur d'Alene, Kellogg and Sandpoint, Idaho, for 180 days. Supporting shippers: Bill Jones Distributing Co., E. W. Jones, Jr., Box 97, Sandpoint, Idaho 83864. Don LaVoie Distributing, Don R. LeVoie, 1515 N.W. Blvd., Coeur d'Alene, Idaho 83814. Panhandle Distributors, Inc., James P. Crowley, Coeur d'Alene, Idaho 83814. Send protests to: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Room 858 Federal Office Bldg., 915 Second Avenue, Seattle, Wash. 98174.

No. MC 136008 (Sub-No. 55TA), filed April 21, 1975. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 200 Northwest 23d Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Big Brown Steam Electric Station, 12 miles northeast of Fairfield, Tex.; and Monticello Steam Electric Station, 8 miles southwest of Mt. Pleasant, Tex., to points in the state of Mississippi, for 180 days. Supporting shipper: Halliburton Services, a Division of Halliburton Co., Allan E. Parker, T. M., P.O. Box 1431, Duncan, Okla. 73533. Send protests to: Marie Spillars, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 240 Old P.O. Bldg., 215 N.W. Third, Oklahoma City, Okla. 73102.

No. MC 138148 (Sub-No. 4TA), filed April 24, 1975. Applicant: JOSEPH J. SCHMIDT, 7499 Montevideo Court, Jessup, Md. 20749. Applicant's representative: Joseph J. Schmidt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beer and malt beverages*, from Evansville, Ind., to points in Edmonston, Md., and (2) *empty beer and malt beverage containers on return*, from Edmonston, Md., to points in Evansville, Ind., for 180 days. Supporting shipper: Abraham Genderson, President, A. Genderson & Sons, Inc., 4612 Ingraham St., Edmonston, Md. 20781. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 140257 (Sub-No. 3TA), filed April 23, 1975. Applicant: BENNETT & SON TRANSPORT, LTD., 234 12th Avenue East, P.O. Box 681, Regina, Saskatchewan, Canada S4P 3A3. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass cullet, glass spheres and glass beads*, from ports of entry at or near Raymond and Sweetgrass, Mont., on the United States-Canada International Boundary, for shipments originating at Moose Jaw, Saskatchewan, to Sacramento, Calif., and points within its commercial zone, for 180 days. Supporting shipper: Canasphere Industries Limited, 603 High St., W., Moose Jaw, Saskatchewan, Canada. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 140732 (Sub-No. 1TA), filed April 24, 1975. Applicant: C. T. C. EQUIPMENT CO., INC., P.O. Box 1161, Mena, Ark. 71953. Applicant's representative: Thomas J. Presson, P.O. Box 71, Redfield, Ark. 72132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed phosphate ore and crushed limestone* in dump trucks and/or trailers, from Leslie, Ark., to points in Columbia, Tenn., and Mt. Pleasant, Tenn., for 180 days. Supporting shipper: Jon T. Phosphate, Inc., P.O. Box 285, Conway, Ark. 72032. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140868 TA, filed April 23, 1975. Applicant: DIXIE LEE TRUCKING COMPANY, Route 5, Lenoir City, Tenn. 37771. Applicant's representative: M. L. Wilkerson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pollution control equipment and parts*, from Shipper's Manufacturing Facility at Knoxville, Tenn., to points of delivery in all states east of the Mississippi River and those states bordering the west bank of the Mississippi River and the state of Texas, for 180 days. Supporting shipper: The Carborundum Company, P.O. Box 337, Niagara Falls, N.Y. 14302. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

No. MC 140768 (Sub-No. 1TA) (Correction), filed April 7, 1975, published in the FEDERAL REGISTER issue of April 18, 1975, and republished as corrected this issue. Applicant: AMERICAN TRANSPORT-FREIGHT, INC., P.O. Box 499, South Bound Brook, N.J. 08880. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care products, and materials, equipment, and supplies* used in the manu-

facture or preparation of medical care products, (2) between the facilities of Travenol Laboratories, Inc., located at or near Cleveland, Miss., Kingstree, S.C., North Cove, N.C., and Memphis, Tenn., for 180 days. Supporting shipper: Travel Laboratories, Inc., Deerfield, Ill. 60015. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102. The purpose of this republication is to change the docket number from 134404 to 140768 Sub-No. 1TA, and to change territorial description to between in lieu of from. Part (1) of the territorial description will remain as previously published.

No. MC 140810 (Sub-No. 1TA), filed April 22, 1975. Applicant: VALLEY MOVING & STORAGE COMPANY, 422 West Adams Street, Harlingen, Tex. 78550. Applicant's representative: V. C. Johnston, Sr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between Harlingen, Tex., on the one hand, and, on the other, points in Willacy, Cameron, Hidalgo, and Starr Counties, Texas. Restrictions: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper: Department of Defense, Regulatory Law Office, OTJAG, Department of the Army, Washington, D.C. 20301. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 301 Broadway, Room 206, San Antonio, Tex. 78205.

No. MC 140871 (Sub-No. 1TA), filed April 21, 1975. Applicant: THOMAS S. BIANCO, 224 Yeoman, Springfield, Ill. 62704. Applicant's representative: Robert T. Lawley, 300 Reich Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, for the account of E. L. Schafer & Sons, Inc., from the facilities of Anheuser-Busch, Inc., at St. Louis, Mo., to points in Springfield, Ill., for 180 days. Supporting shipper: Robert E. Schafer, Vice President, Gen. Mgr., E. L. Schafer & Sons, Inc., 300 Myrtle, Springfield, Ill. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

APPLICATION OF PASSENGERS

No. MC 140782 (Sub-No. 1TA), filed April 23, 1975. Applicant: HENRY JOHNSON, 260 Bunnell Street, Bridgeport, Conn. 06607. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transport-

ing: *Passengers and their baggage*, in charter operations, from Bridgeport, Conn., over Interstate Highway 95, to points in Bennettsville, S.C., and return, for 180 days. Supporting shippers: There are seven (7) statements of support attached to the application which may be examined at the field office named below. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Bldg., 135 High St., Hartford, Conn. 06101.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-11999 Filed 5-8-75; 8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY APPLICATIONS

MAY 1, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before June 6, 1975. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

MC 1936 (Sub-No. 41G), filed June 4, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of their size or weight requires the use of special equipment, (a) Between points in Brooke, Hancock and Ohio Counties, West Virginia and points in Pennsylvania on the one hand, and, on the other points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois and Michigan. The purpose of this filing is to eliminate the gateways at points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio. (b) Between points in Pennsylvania on the one hand, and, on the other, points in that part of Kentucky on and east of a line beginning at the Ohio-Kentucky State Line and ex-

tending over Kentucky Highway 11 to junction Kentucky Highway 15, thence over Kentucky Highway 15 to junction U.S. 119, thence over U.S. Highway 119 to Jenkins, Kentucky, thence over U.S. Highway 23 to the Kentucky-Virginia Border. The purpose of this filing is to eliminate the gateways at points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio and points in Belmont County, Ohio. (c) Between points in West Virginia, on the one hand, and, on the other, points in New York and Pennsylvania. The purpose of this filing is to eliminate the gateways at points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio.

(d) Between points in Pennsylvania, on the one hand, and, on the other, points in that part of Kentucky on and east of a line beginning at the Ohio-Kentucky State Line and extending over Kentucky Highway 11 to junction Kentucky Highway 15, thence over Kentucky Highway 15 to junction U.S. Highway 119, thence over U.S. Highway 119 to Jenkins, Kentucky, thence over U.S. Highway 23 to the Kentucky-Virginia border, points in that part of Indiana on and north of a line beginning at the Ohio-Indiana State Line and extending over U.S. Highway 40 to Richmond, Indiana, thence over Indiana Highway 38 to Noblesville, Indiana, thence over Indiana Highway 32 to the Indiana-Illinois Border, and points in that part of Illinois on and north of a line beginning at the Indiana-Illinois State Line and extending over Interstate Highway 74 to Galesburg, Illinois, thence over U.S. Highway 34 to the Illinois-Iowa Border. The purpose of this filing is to eliminate the gateways at points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio and Belmont County, Ohio. (5) *Pipe and pipe fittings*, (a) from points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois and Michigan, to points in Illinois, Indiana, Maryland, New York, New Jersey, Michigan, Ohio, Kentucky and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways at Sharon, Wheatland, Pittsburgh and Aliquippa, Pa. (6) From points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio and Sharon, Wheatland, Pittsburgh and Aliquippa, Pa. to points in Illinois, Indiana, Maryland, New York, New Jersey, Michigan, Ohio, Kentucky and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways at Sharon, Wheatland, Pittsburgh and Aliquippa, Pa.

(c) From points in Ohio on and east of U.S. Highway 23 from the Michigan-Ohio State Line to junction U.S. Highway 224, thence on and north of U.S. Highway 224 to Ellsworth, Ohio, and thence on and east of Ohio Highway 45 to Wellsville, Ohio, to points in Illinois, Indiana, Maryland, New York, New Jersey, Michigan, Ohio, Kentucky, and the District of Columbia, with no transportation for compensation on return ex-

cept as otherwise authorized. The purpose of this filing is to eliminate the gateways at Sharon, Wheatland, Pittsburgh and Aliquippa, Pa. (8) *Twilight Zone commodities* as described in *National Automobile Transporters Association et al. v. Rowe Transfer & Storage Company, Inc.*, 64 M.C.C. 229 (1955) and subsequent cases, (a) Between Newburgh, Poughkeepsie and Firthcliffe, New York on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Michigan, points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio, and points in that part of Ohio on the east of U.S. Highway 23 from the Michigan-Ohio State Line to junction U.S. Highway 224, thence on and north of U.S. Highway 224 to Ellsworth, Ohio, and thence on and east of Ohio Highway 45 to Wellsville, Ohio. The purpose of this filing is to eliminate the gateways at Philadelphia, Pa. and points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio. (b) Between Canton, Ohio on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Michigan, points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio, and points in Ohio on the east of U.S. Highway 23 from the Michigan-Ohio State Line to junction U.S. Highway 224, thence on and north of U.S. Highway 224 to Ellsworth, Ohio, and thence on and east of Ohio Highway 45 to Wellsville, Ohio. The purpose of this filing is to eliminate the gateways at points in Cuyahoga, Lake, Lorain and Medina Counties, Ohio, located within 25 miles of Canton, Ohio.

No. MC 13134 (Sub-No. 41G), filed March 3, 1975. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, Ohio 45656. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforcement steel*, and *steel rails*, from points in Ohio, West Virginia, and Washington County, Pa., to points in Kentucky; (2) *reinforcing steel*, *steel rails*, and *railway track*, *materials and fittings*, *structural steel*, including *fittings and bolts*, from points in Ohio, West Virginia and Washington County, Pa., to points in that part of Tennessee on and east of U.S. Highway 27; those in Virginia on and west of U.S. Highway 220; and those in Kentucky on and east of U.S. Highways 25 and 25-W, and not within 10 miles of the Ohio River; (3) *reinforcing steel*, *steel rails*, and *railway track*, *materials and fittings*, *structural steel*, *structural steel fittings*, *bolts*, *agricultural implement parts*, *steel posts*, and *iron steel bars*, from points in Ohio, West Virginia and Washington County, Pa., to points in North Carolina, those in Virginia east of U.S. Highway 220, those in Tennessee west of U.S. Highway 27, and those in Kentucky west of U.S. Highways 25 and 25-W and not within 10 miles of the Ohio River; (4) *iron*, *steel*, and *iron and steel articles*, which, because of size

or weight, require the use of special equipment, between points in Ohio, West Virginia, and Washington County, Pa., on the one hand, and, on the other, points in Kentucky on and east of a line beginning at the Kentucky-Ohio State Boundary line and extending along U.S. Highway 25 to intersection U.S. Highway 25-W, and thence along U.S. Highway 25-W to the Kentucky-Tennessee State Boundary line. The purpose of this filing in (1) through (4) above is to eliminate a gateway at Huntington, W. Va.

(5) *Iron and steel, and iron and steel articles*, from points in Ohio, West Virginia, and Washington County, Pa., to points in Arkansas and Oklahoma, restricted against the transportation of building materials and commodities which, because of size or weight, require special equipment. The purpose of this filing is to eliminate gateways at points in Cabell and Wayne Counties, W. Va.

(6) *Iron and steel, and iron and steel articles* (except those commodities which, because of size or weight, require special equipment and those articles of iron and steel which are building materials), from points in Ohio, West Virginia, and Washington County, Pa., to points in Kansas, Wisconsin, Alabama, Florida, Georgia, and Texas. The purpose of this filing is to eliminate a gateway at Huntington, W. Va. (7) *Corrugated iron and steel pipe, including fittings*, therefore, between points in Ohio, West Virginia, and Washington County, Pa., on the one hand, and, on the other, points in Virginia on and west of U.S. Highway 220, and points in Tennessee on and east of U.S. Highway 27, and on and north of U.S. Highway 70. The purpose of this filing is to eliminate a gateway at Ashland, Ky. (8) *Reinforcement steel, structural steel, including fittings and bolts, steel mine roof bolts, steel track bolts, steel plates, steel sheets, and steel pipe*, from Cleveland, Ohio, to points in Kentucky, Tennessee, Virginia and North Carolina. The purpose of this filing is to eliminate a gateway at Huntington, W. Va.

(9) *Reinforcement steel, structural steel, including fittings and bolts, steel mine roof bolts, steel track bolts, steel plates, steel sheets, and steel pipe*, (except those commodities which, because of size or weight, require special equipment and those articles of iron and steel which are building materials), from Cleveland, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Kansas, Oklahoma, Texas and Wisconsin; (10) *Steel pipe*, from Lorain, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Kansas, Oklahoma, Texas and Wisconsin, restricted against the transportation of building materials and commodities which, because of size or weight, require special equipment. The purpose of this filing in (9) and (10) above is to eliminate gateways at Huntington, W. Va. and points in Cabell and Wayne Counties, W. Va. (11) *Steel pipe*, which because of size or weight requires the use of special equipment, from Lorain, Ohio, to points in Kentucky on and east of a line beginning at the Kentucky-Ohio State Boundary line and extending along

U.S. Highway 25 to intersection U.S. Highway 25-W, and thence along U.S. Highway 25-W to the Kentucky-Tennessee State Boundary line. The purpose of this filing is to eliminate a gateway at Ashland, Ky. (12) *Iron and steel, and iron and steel articles*, which because of size or weight, require the use of special equipment, from the plant site of the Bethlehem Steel Corporation located at Burns Harbor (Porter County), Ind., to points in Kentucky on and east of a line beginning at the Kentucky-Ohio State Boundary line and extending along U.S. Highway 25 to intersection U.S. Highway 25-W, and thence along U.S. Highway 25-W to the Kentucky-Tennessee State Boundary line, restricted to the transportation of shipments originating at, or destined to the plant site of the Bethlehem Steel Corporation, located at Burns Harbor (Porter County), Ind. The purpose of this filing is to eliminate a gateway at points in Ohio south of U.S. Highway 40.

(13) *Reinforcing steel, steel rails, and railway track, materials, and fittings, structural steel, including fittings and bolts*, from the plant site of the Bethlehem Steel Corporation located at Burns Harbor (Porter County), Ind., to points in Virginia on and west of U.S. Highway 220; (14) *Reinforcing steel, steel rails, and railway tracks, materials, and fittings, structural steel, structural steel fittings, bolts, agricultural implement parts, steel posts, and iron steel bars*, from the plant site of the Bethlehem Steel Corporation located at Burns Harbor (Porter County), Ind., to points in Virginia on and east of U.S. Highway 220, and those in North Carolina. The purpose of this filing in (13) and (14) above is to eliminate a gateway at Huntington, W. Va. (15) *Iron and steel, and iron and steel articles*, (except those commodities which are building materials, and those commodities which because of their size or weight, require the use of special equipment), from the plant site of the Bethlehem Steel Corporation located at Burns Harbor (Porter County), Ind., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Oklahoma, Texas and Wisconsin, restricted to the transportation of shipments originating at, or destined to the plant site of the Bethlehem Steel Corporation located in Burns Harbor, (Porter County), Ind. The purpose of this filing is to eliminate gateways at Huntington, W. Va. and points in Cabell and Wayne Counties, W. Va.

(16) *Reinforcing steel, steel rails, and railway track, materials, and fittings, structural steel, including fittings and bolts*, from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, Ill., to points in Virginia on and west of U.S. Highway 220, restricted to the transportation of traffic originating at or destined to the named origins and destinations and further restricted against the transportation of commodities in bulk; (17) *Reinforcing steel, steel rails, and railway track, materials and fittings, structural steel, structural steel fittings, bolts, agricultural implement parts, steel posts, and iron steel*

bars, from the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill., to points in Virginia on and east of U.S. Highway 220, and points in North Carolina, restricted to the transportation of traffic originating at or destined to the named origins and destinations and further restricted against the transportation of commodities in bulk. The purpose of this filing in (16) and (17) above is to eliminate a gateway at Huntington, W. Va.

(18) *Iron and steel articles*, which, because of size or weight, require the use of special equipment, from the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill., to points in West Virginia, and those in Kentucky on and east of a line beginning at the Kentucky-Ohio State Boundary line and extending along U.S. Highway 25 to intersection U.S. Highway 25-W, and thence along U.S. Highway 25-W to the Kentucky-Tennessee State Boundary line; restricted to the transportation of traffic originating at or destined to the named origins or destinations and further restricted against the transportation of commodities in bulk; (19) *Materials, equipment, and supplies* used in the manufacture and processing of iron and steel articles, which, because of size or weight, require the use of special equipment, from points in West Virginia and those in Kentucky on and east of a line beginning at the Kentucky-Ohio State Boundary line and extending along U.S. Highway 25 to intersection U.S. Highway 25-W, and thence along U.S. Highway 25-W to the Kentucky-Tennessee State Boundary line, to the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill., restricted to the transportation of traffic originating at or destined to the named origins and destinations and further restricted against the transportation of commodities in bulk; and (20) *Reinforcement steel and steel rails*, from the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill., to points in Kentucky, restricted to the transportation of traffic originating at or destined to the named origins and destinations and further restricted against the transportation of commodities in bulk. The purpose of this filing in (18) through (20) above is to eliminate a gateway at points in Ohio south of U.S. Highway 40.

No. MC 13250 (Sub-No. 129G), filed April 5, 1975. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, Houston, Tex. 77022. Applicant's representative: James M. Doherty, 500 West Sixteenth Street, Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the Report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) between points in California, on the one hand, and, on the other, points in Idaho. The purpose of this filing is to eliminate the gateways of points in Utah or Oregon. (2) Between points in California, on the one hand, and, on the other, points in

Montana. The purpose of this filing is to eliminate the gateways of points in Nevada or Oregon and Idaho. (3) Between points in Colorado, on the one hand, and, on the other, points in Oregon. The purpose of this filing is to eliminate the gateways of points in Idaho or California. (4) Between points in Colorado, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of points in Idaho.

(5) Between points in Idaho, on the one hand, and, on the other, points in Oregon. The purpose of this filing is to eliminate the gateway of points in Idaho. (6) Between points in Idaho, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of points in Idaho. (7) Between points in Montana, on the one hand, and, on the other, points in Oregon. The purpose of this filing is to eliminate the gateway of points in Idaho. (8) Between points in Montana, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of points in Idaho. (9) Between points in Utah, on the one hand, and, on the other, points in Oregon. The purpose of this filing is to eliminate the gateway of points in Idaho or California. (10) Between points in Utah, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of points in Idaho. (11) Between points in Wyoming, on the one hand, and, on the other, points in Oregon. The purpose of this filing is to eliminate the gateway of points in Idaho. (12) Between points in Wyoming, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of points in Idaho.

No. MC 14702 (Sub-No. 61G), filed June 4, 1974. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, Ohio 44482. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of household goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between points in Ohio, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate the gateways of Warren and Blaine, Ohio.

No. MC 14702 (Sub-No. 63G), filed June 4, 1975. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, Ohio 44482. Applicant's representative: Paul F. Beery, 8 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, except dangerous explo-

sives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between points in Ohio, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateways at Blaine and Warren, Ohio.

No. MC 26739 (Sub-No. 78G), filed May 31, 1974. Applicant: CROUCH BROTHERS, INC., P.O. Box 1059, St. Joseph, Mo. 64502. Applicant's representative: Sheldon Silverman, 1819 H Street NW., Suite 550, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) (A) between points in Illinois (except Springfield), Iowa, Kansas, Missouri and Nebraska. The purpose of this filing is to eliminate the gateway of Maryville Junction, Mo. (B) between Minneapolis-St. Paul, Minn., on the one hand, and, on the other, points in Iowa, Kansas, Missouri, and Nebraska. The purpose of this filing is to eliminate the gateways of Maryville Junction, Mo. and Estherville, Iowa. (2) *Agricultural machinery*, from Chicago, Ill. and points within a 50 miles radius of 706-708 West Harrison Street, Chicago, Ill., to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Chicago, Ill.; Maryville Junction, Mo. and any point in Kansas.

No. MC 37473 (Sub-No. 27G), filed June 4, 1974. Applicant: DETROIT-PITTSBURGH MOTOR FREIGHT, INC., 5324 Grant Avenue, Cleveland, Ohio 44125. Applicant's Representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel*, and *iron and steel articles* (except machinery); (1) Between points in Pennsylvania on and west of a line beginning at the Pennsylvania-West Virginia State Boundary line and extending along U.S. Highway 119 to Indiana, Pa., thence along U.S. Highway 422 to Portersville, Pa., and thence along U.S. Highway 19 to Erie, Pa.; points in Ohio and Indiana on and north of U.S. Highway 40; points in West Virginia on and north of U.S. Highway 50; points in Michigan on and south of a line beginning at Muskegon, Mich. and extending along Michigan Highway 20 to Bay City, Mich., thence along Michigan Highway 25 to Port Austin, Mich., and thence along U.S. Highway 25 to Port Huron, Mich., restricted against service from Weirton, W. Va., to Adrian, Detroit, Flint, Niles and Pontiac, Mich.; from Pittsburgh, Aliquippa, and Apollo, Pa., to Detroit and Wyandotte, Mich., and Canton and Toledo, Ohio; and from

Canton, Ohio, to Girard, Pa., and further restricted against the transportation of warm air furnaces and air-conditioning equipment and supplies from Medina, Ohio; (2) from points in Pennsylvania and West Virginia within the territory described in (1) above, to Chicago, Ill.; Columbus, Ind.; Cincinnati and Dayton, Ohio; and Louisville, Ky.; (3) from points in Ohio on and north of U.S. Highway 40, to Chicago, Ill., Columbus, Ind., and Louisville, Ky., restricted against the transportation of warm air furnaces and air-conditioning equipment and supplies from Medina, Ohio; and (4) from Canton and Massillon, Ohio, and New Cumberland, W. Va., to points in New York on and west of a line beginning at the New York-Pennsylvania State Boundary line and extending along U.S. Highway 11 to Syracuse, N.Y., and thence along New York Highway 57 to Oswego, N.Y. The purpose of this filing is to eliminate the gateways at Canton, Ohio and New Cumberland, W. Va.

No. MC 60014 (Sub-No. 39G), filed February 11, 1975. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, which by reason of size or weight require the use of special equipment, (A) from points in Ohio on and east of a line beginning at Lorain, Ohio, thence south via Ohio Highway 57 to junction Ohio Highway 83, thence south via Ohio Highway 83 to junction Ohio Highway 340, thence via Ohio Highway 340 to junction Interstate Highway 77, thence south via Interstate Highway 77 to the Ohio-West Virginia state line, to points in Alabama, (B) from points in Ohio on and north of a line beginning at Lakewood, Ohio thence south via Ohio Highway 70 to junction Interstate Highway 80, thence east via Interstate Highway 80 to junction U.S. Highway 14, thence via U.S. Highway 14 to junction Ohio Highway 45, thence via Ohio Highway 45 to junction U.S. Highway 30, thence via U.S. Highway 30 to the Ohio-West Virginia state line, to points in Kentucky on and south of a line beginning at Paducah, Kentucky, thence east via U.S. Highway 62 to junction Kentucky Highway 231, thence via Kentucky Highway 231 to junction Kentucky Highway 80, thence via Kentucky Highway 80 to junction U.S. Highway 119, thence via U.S. Highway 119 to Kentucky-West Virginia state line, (C) from points in Ohio on and east of a line beginning at Sandusky, Ohio, thence south via U.S. Highway 250 to junction Ohio Highway 13, thence via Ohio Highway 13 to junction Ohio Highway 39, thence via Ohio Highway 39 to junction Ohio Highway 83, thence via Ohio Highway 83 to junction U.S. Highway 36, thence via U.S. Highway 36 to junction Interstate Highway 77, thence via Interstate Highway 77 to junction Ohio Highway 564, thence via Ohio Highway 564 to junction Ohio Highway 565, thence via Ohio High-

way 565 to junction Ohio Highway 260, thence via Ohio Highway 260 to New Matamoras, Ohio, to points in Mississippi, and (D) from points in Ohio on and east of a line beginning at Vermillion, Ohio, thence south via Ohio Highway 60 to junction Ohio Highway 545, thence via Ohio Highway 545 to junction Ohio Highway 13, thence via Ohio Highway 13 to junction Ohio Highway 39, thence via Ohio Highway 39 to junction U.S. Highway 250, thence via U.S. Highway 250 to junction Ohio Highway 800, thence via Ohio Highway 800 to the Ohio-West Virginia state line, to points in Tennessee on and west of U.S. Highway 25E. The purpose of this filing is to eliminate the gateway of Steubenville, Ohio.

(2) *Commodities*, the transportation of which, by reason of their size or weight, require the use of special equipment, (A) between points in Ohio on and east of a line beginning at Sandusky, Ohio, thence south via U.S. Highway 250 to junction Ohio Highway 13, thence via Ohio Highway 13 to junction U.S. Highway 33, thence via U.S. Highway 33 to the Ohio-West Virginia state line, on the one hand, and, on the other, points in Illinois, (B) (i) between points in Ohio on and east of a line beginning at the Ohio-Michigan state line, thence south via Ohio Highway 109 to junction U.S. Highway 20, thence east via U.S. Highway 20 to junction U.S. Highway 6, thence via U.S. Highway 6 to Sandusky, Ohio, on the one hand, and, on the other, points in Indiana on and south of a line beginning at Madison, Ind., thence via Indiana Highway 256 to junction Indiana Highway 62, thence via Indiana Highway 62 to junction Interstate Highway 65, thence via Interstate Highway 65 to junction U.S. Highway 460, thence via U.S. Highway 460 to junction Indiana Highway 62, thence via Indiana Highway 62 to the Indiana-Illinois state line, (ii) between points in Ohio on and east of a line beginning at Vermillion, Ohio, thence south via Route 60 to junction Routes 60, 162 and 13, thence south via Ohio Route 13 to Athens, Ohio and the junction with U.S. Route 33, thence south via Route 33 to the Ohio-West Virginia state line, on the one hand, and, on the other, points in Indiana, (C) between points in Ohio, on the one hand, and, on the other, points in Maryland, (D) between points in Ohio on and south of a line beginning on Lake Erie, thence south via Ohio Highway 11 to junction Interstate Highway 90, thence via Interstate Highway 90 to junction Interstate Highway 71, thence via Interstate Highway 71 to the Ohio-Kentucky state line, on the one hand, and, on the other, points in Michigan on and north of a line beginning at Detroit, Mich., thence via Interstate Highway 75 to junction Michigan Highway 47, thence via Michigan Highway 47 to junction U.S. Highway 10, thence via U.S. Highway 10 to junction Michigan Highway 115, thence via Michigan Highway 115 to junction Michigan Highway 37, thence via Michigan Highway 37 to Traverse City, Mich.

(E) Between points in Ohio on and south of a line beginning at Sandusky, thence south via U.S. Highway 250 to junction Interstate Highway 80, thence via Interstate Highway 80 to U.S. Highway 14, thence via U.S. Highway 14 to the Ohio-Pennsylvania state line, on the one hand, and, on the other, points in New York on and east of a line beginning at Carlton, N.Y., thence via New York Highway 98 to junction New York Highway 16, thence via New York Highway 16 to the New York-Pennsylvania state line, (F) between points in Ohio on and south of a line beginning at Sandusky, thence south via U.S. Highway 250 to junction Interstate Highway 80, thence via Interstate Highway 80 to junction U.S. Highway 14, thence via U.S. Highway 14 to the Ohio-Pennsylvania state line, on the one hand, and, on the other, points in Pennsylvania on, south and east of a line beginning at the Ohio-Pennsylvania state line thence via Pennsylvania Highway 51 to junction Pennsylvania Highway 68, thence via Pennsylvania Highway 68 to junction Pennsylvania Highway 66, thence via Pennsylvania Highway 66 to junction U.S. Highway 219, thence via U.S. Highway 219 to the Pennsylvania-New York state line, (G) between points in Ohio on and north of a line beginning at Union City, thence via Ohio Highway 571 to junction Ohio Highway 49, thence via Ohio Highway 49 to junction U.S. Highway 40, thence via U.S. Highway 40 to junction Ohio Highway 56, thence via Ohio Highway 56 to junction U.S. Highway 33, thence via U.S. Highway 33 to the Ohio-West Virginia state line, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at Mason, thence via U.S. Highway 33 to junction Interstate Highway 77, thence via Interstate Highway 77 to junction U.S. Highway 21, thence via U.S. Highway 21 to junction West Virginia Highway 14, thence via West Virginia Highway 14 to junction West Virginia Highway 3, thence via West Virginia Highway 3 to junction U.S. Highway 119, thence via U.S. Highway 119 to junction West Virginia-Kentucky state line.

(H) Between points in Ohio on and east of a line beginning at Sandusky, thence via U.S. Highway 50 to junction Ohio Highway 13, thence via Ohio Highway 13 to junction U.S. Highway 33, thence via U.S. Highway 33 to the Ohio-West Virginia state line, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence via U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia state line.

No. MC 61825 (Sub-No. 60G), filed May 31, 1974. Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, Post Office Box 385, Collinsville, Va. 24078. Applicant's representative: Joe

Clyde Wilson (same address as applicant). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *New furniture, furniture parts, furniture factory machinery and furniture materials* (except commodities in bulk), (a) between points in Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. The purpose of this filing is to eliminate the gateways of Lynchburg, Martinsville, and Pulaski, Va., Smyth County, Va., and points in Georgia. (b) Between points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and Virginia, on the one hand, and, on the other, points in Delaware, District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Pulaski, Lynchburg, and Martinsville, Va., Smyth County, Va., points in Georgia, and Baltimore, Md.

(c) Between points in Georgia, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Smyth County, Va., Lynchburg and Martinsville, Va. (2) *General commodities* (except those of unusual value, class A and B explosives, livestock, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (a) between points in North Carolina, South Carolina, Virginia, West Virginia, Maryland and District of Columbia. The purpose of this filing is to eliminate the gateway of Lynchburg, Va. (b) From Cincinnati, Ohio, to points in North Carolina, South Carolina, Virginia, Maryland, District of Columbia, New York, N.Y. and Newark, N.J. and points in New Jersey within 15 miles of Newark, N.J. The purpose of this filing is to eliminate the gateways of Lynchburg, Va. and Baltimore, Md. (c) From New York, N.Y., points in that part of New Jersey, on, east, and south of U.S. Highway 202, points in that part of Pennsylvania bounded by a line beginning at New Hope, Pa., and extending along U.S. Highway 202 to Norristown, Pa., thence along U.S. Highway 422 to Harrisburg, Pa., thence along U.S. Highway 15 to the Pennsylvania-Maryland State line, thence along the Pennsylvania-Maryland State line to the Pennsylvania-Delaware State line, thence along the Pennsylvania-Delaware State line to the Pennsylvania-New Jersey State line, and thence along the Pennsylvania-New Jersey State line to point of beginning, to points in North Carolina, South Carolina, Virginia and West Virginia. The purpose of this filing is to eliminate the gateways of Lynchburg, Va. and Baltimore, Md.

(d) Between Steubenville, Ohio and points within 50 miles of Steubenville, on the one hand, and, on the other, points in North Carolina and Virginia. The purpose of this filing is to eliminate the gateways of Coketown, W. Va. and Lynchburg, Va. (3) *Iron and steel products*, between points in New York, Ohio

and Pennsylvania, on the one hand, and, on the other, points in North Carolina, South Carolina, Virginia and West Virginia. The purpose of this filing is to eliminate the gateways of Weirton, Coke, town, and Clarksburg, W. Va., Lynchburg, Va., and Baltimore, Md. (4) *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, between points in Ohio, Pennsylvania and West Virginia located within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in North Carolina, South Carolina and Virginia. The purpose of this filing is to eliminate the gateways of Brooke County, W. Va., Coketown, Clarksburg, and Fairmont, W. Va., and Lynchburg, Va.

No. MC 63792 (Sub-No. 22G), filed June 4, 1974. Applicant: TOM HICKS TRANSFER COMPANY, INC., 3838 Majestic Street, P.O. Box 16006, Houston, Tex. 77022. Applicant's representative: C. W. Ferebee (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking-up thereof, except the stringing and picking-up of pipe in connection with main pipelines. (2) *earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, and (3) *Machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines other than pipelines used for the transmission of natural gas, petroleum, their products and byproducts, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, (a) between points in Louisiana and Arkansas, on the one hand, and, on the other, points in Oklahoma, Kansas, New Mexico, Colorado, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of points in Texas.

(b) Between points in Mississippi, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Louisiana. (c) Between points in Mississippi, on the one hand, and, on the other, points in Oklahoma, Kansas, New Mexico,

Colorado, Utah and Wyoming. The purpose of this filing is to eliminate the gateways of points in Texas and Louisiana. (d) Between points in Oklahoma and Kansas, on the one hand, and, on the other, points in New Mexico, Colorado, Utah and Wyoming. The purpose of this filing is to eliminate the gateway of points in Texas. (e) Between points in Alabama, Georgia and Florida, on the one hand, and, on the other, points in Texas, Arkansas, Oklahoma, New Mexico, Colorado, Utah and Wyoming. The purpose of this filing is to eliminate the gateways of points in Louisiana and Texas. (4) *Heavy machinery and/or heavy cumbersome commodities*, which because of their size or weight require the use of special equipment and parts thereof between Houston, Tex., on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Louisiana. (5) *Iron and steel articles* which, because of their size or weight, require the use of special equipment, (a) between points in Arkansas, Louisiana, and Mississippi, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of Houston, Tex. (b) From points in Texas, Louisiana, Arkansas, and Mississippi, to points in New Mexico, Oklahoma and Kansas. The purpose of this filing is to eliminate the gateway of Houston, Tex. (c) Between points in Texas. The purpose of this filing is to eliminate the gateway of Houston, Tex.

No. MC 72235 (Sub-No. 9G), filed June 4, 1974. Applicant: JOHN F. IVORY STORAGE CO., INC., 8035 Woodward Avenue, Detroit, Mich. 48202. Applicant's representative: Arthur P. Boynton, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission. (1) (a) Between points in the United States (except points in Vermont and South Carolina), on the one hand, and, on the other, points in South Carolina within 150 miles of Augusta, Georgia. (b) Between points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate the gateway at points in Georgia. (2) Between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia, on the one hand, and, on the other,

points in Maine. The purpose of this filing is to eliminate the gateway at points in Massachusetts and the Lower Peninsula of Michigan. (3) Between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, on the one hand, and, on the other, points in New Hampshire. The purpose of this filing is to eliminate the gateway at points in the Lower Peninsula of Michigan.

(4) Between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways at points in Faulkner, Cleburne, Van Buren, Perry, White and Conway Counties, Arkansas, and the Lower Peninsula of Michigan. (5) Between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway at points in Faulkner, Cleburne, Van Buren, Perry, White and Conway Counties, Arkansas. (6) Between points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, on the one hand, and, on the other, points in that part of New Mexico on, west and north of a line beginning at the New Mexico-Colorado State line along Interstate Highway 25 (formerly U.S. Highway 85) to Albuquerque, N. Mex., and thence along Interstate Highway 40 (formerly U.S. Highway 66) to the New Mexico-Arizona State line. The purpose of this filing is to eliminate the gateways at points in Colorado on and west of the Continental Divide.

(7) Between points in California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, on the one hand, and, on the other, points in that part of Arizona on and north of a line beginning at the Arizona-New Mexico line and extending along Interstate Highway 40 (formerly U.S. Highway 66) to junction unnumbered highway (formerly U.S. Highway 66) near McConnico, thence along unnumbered

highway to junction Interstate Highway 40 (Formerly U.S. Highway 66), thence along Interstate Highway 40 to the Arizona-California State line. The purpose of this filing is to eliminate the gateways at points in that part of Colorado on and west of the Continental Divide. (8) Between points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Washington, and Wyoming, on the one hand, and, on the other, points in that part of Utah on and east of a line beginning at the Utah-Nevada State line extending along U.S. Highway 91 to Ogden, thence along Interstate Highway 80N and 80 (formerly U.S. Highway 30S) to the Utah-Wyoming State line. The purpose of this filing is to eliminate the gateways at points in that part of Colorado on and west of the Continental Divide. (9) Between points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Washington, on the one hand, and, on the other, points in that part of Wyoming on and south of a line beginning at the Wyoming-Utah State line extending along Interstate Highway 80 (formerly U.S. Highway 30), to junction unnumbered highway (formerly U.S. Highway 30), thence along unnumbered highway to junction Interstate Highway 80, thence along Interstate Highway 80 to Cheyenne, Wyo., and thence along U.S. Highway 85 to the Wyoming-Colorado State line. The purpose of this filing is to eliminate the gateways at points in that part of Colorado on and west of the Continental Divide.

No. MC 73165 (Sub-No. 344-G) (Clarification), filed June 4, 1974, published in the FEDERAL REGISTER issue of March 20, 1975, and republished as clarified this issue. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Asphalt*, in containers (except petroleum products in collapsible C & S containers such as sealdrums and sealdrums), from Good Hope, La., to points in Tennessee on and east of U.S. Highways 45 and 45 W. The purpose of this filing is to eliminate the gateway at Tuscaloosa, Ala.

(2) *Trailers, semi-trailers, and trailer chassis and semi-trailer chassis* (except those designed to be drawn by passenger automobiles and except those requiring special equipment), in initial or secondary movements, in truckaway service, (a) from points in Georgia, to points in Oklahoma, New Mexico, Arizona, Nevada, California, Utah, Colorado, Kansas, Nebraska, Minnesota, North Dakota, South Dakota, Wyoming, Montana, Idaho, Washington, Oregon, Alaska, and that part of Texas on and west of U.S. Highway 81; (b) from points in Georgia on and south of U.S. Highway 278, to points in Arkansas and Missouri; (c) from points in Georgia on and north of U.S. Highway 278, to points in Louisiana,

that part of Texas on and east of U.S. Highway 81 (except Dallas and Garland, Texas), and that part of Mississippi on and south of U.S. Highway 82; (d) from points in Mississippi to points in Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, Delaware, Virginia (except Richmond, Va.), North Carolina, and South Carolina; (e) from points in Mississippi on and south of a line extending from the Mississippi-Arkansas Line along Mississippi Highway 6 to Tupelo, Miss., and thence along U.S. Highway 78 to the Mississippi-Alabama Line, to points in West Virginia; (f) between points in Mississippi on and north of U.S. Highway 82, on the one hand, and, on the other, points in Georgia on and south of U.S. Highway 80; (g) between points in Mississippi on and south of U.S. Highway 82, on the one hand, and, on the other, points in Georgia on and north of U.S. Highway 78; (h) from points in Mississippi on and north of U.S. Highway 82, to points in Florida on and east of U.S. Highway 41; (i) from points in Tennessee on and east of U.S. Highway 27, to points in Mississippi on and south of Interstate 20; and (j) from points in Tennessee on and west of a line extending from the Tennessee-Kentucky State line along U.S. Highway 41 to Nashville, Tenn., thence along U.S. Highway 31 to the Tennessee-Alabama State line, to points in Florida and those in that part of Georgia on and south of U.S. Highway 80. The purpose of this filing is to eliminate a gateway at Birmingham, Ala.

(3) *Trailers, semi-trailers, and trailer chassis and semi-trailer chassis* (except those designed to be drawn by passenger automobile); in secondary movements, in truckaway service, restricted to commodities which because of size or weight require the use of special equipment, (a) from points in South Carolina, North Carolina, that part of Tennessee on and east of Interstate Highway 75, and that part of Georgia on and north of U.S. Highway 278, to points in Texas; (b) from points in Georgia on and south of U.S. Highway 278, to points in Texas on and west of U.S. Highway 81; and (c) from points in Louisiana, Mississippi and those points in Texas on and north of U.S. Highway 80, to points in Virginia. The purpose of this filing is to eliminate a gateway at Birmingham, Ala. (4) *Pipe, conduit, tubing, and fittings and connections* (except materials, equipment, and supplies used in, or in connection with, the discovery, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), the transportation of which by reason of their size or weight require the use of special equipment or special handling, (a) from Dubuque, Iowa, and points in Iowa and Wisconsin within 150 miles of Dubuque, and points in Illinois on or north of Interstate Highway 74, to points in Alabama, Georgia, Florida, North Carolina, and South Carolina; and (b) from Dubuque, Iowa, and points in Wisconsin within 150 miles of Dubuque, and points in Illinois on and north of Interstate Highway 74, to points in Louisiana and Mississippi. The purpose of this filing

is to eliminate a gateway at Fairbury, Ill.

(5) *Glass containers*, (a) from points in Mississippi on and south of U.S. Highway 78, to points in West Virginia; (b) from points in Mississippi on and west of U.S. Highway 51, to points in Kentucky on and west of a line extending from the Kentucky-Tennessee State Line along U.S. Highway 31-E to Glasgow, Ky., and thence along U.S. Highway 68, to Maysville, Ky.; and (c) from points in Tennessee on and north of a line beginning at Memphis, Tenn., and extending along Interstate 40 to Nashville, Tenn., and thence along U.S. Highway 31E to the Kentucky-Tennessee State Line, to all points in Louisiana (except New Orleans, La.). Restriction: The service authorized herein is subject to the following conditions: The authority granted herein is restricted against service from the plant site and warehouse facilities of Knox Glass Company located in Rankin County, Miss. Said Authority is restricted against service at Memphis, Tenn., and points in its commercial zone, as defined by the Commission. The purpose of this filing is to eliminate a gateway at Mineral Wells, Miss. (6) *Glass containers* (except those requiring special equipment, those of unusual value, and household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467), (a) from the plantsite and warehouse facilities of Knox Glass Company located in Rankin County, Miss., to points in Tennessee on and east of U.S. Highway 41 and points in Georgia on and north of U.S. Highway 78; and (b) from Memphis, Tenn., to points in Florida, and that part of Georgia on and south of U.S. Highway 80. The purpose of this filing is to eliminate a gateway at Birmingham, Ala. and points within 10 miles thereof.

(7) *Pipe and pipe fittings, cast iron meter boxes, manhole frames, and manhole covers* (except those which because of size or weight require the use of special equipment, and except pipe and pipe fittings such as are included in the first findings of the Commission in *T. E. Mercer and G. E. Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459 and 543), (a) between points in Nevada, on the one hand, and, on the other, points in Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, South Carolina, North Carolina, that part of Arkansas on and east of U.S. Highway 67, that part of Kentucky on and south of a line extending from Paducah, Ky., along U.S. Highway 68 to Glasgow, Ky., thence along Kentucky Highway 80 to Pikeville, Ky., and thence along U.S. Highway 119 to the Kentucky-West Virginia State Line, and that part of Virginia on and south of U.S. Highway 60; (b) between points in Nevada on and south of U.S. Highway 50, on the one hand, and, on the other, points in Virginia, Maryland, Delaware, that part of Kentucky on and south of Interstate 64, West Virginia on and south of U.S. Highway 50, New Jersey on and south of U.S. Highway 30, and Philadelphia, Pa., (c) between points in Utah, on the one hand, and, on the other,

points in Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina, South Carolina, and that part of Arkansas on and east of U.S. Highway 67; (d) between points in Utah on and south of U.S. Highway 50, on the one hand, and, on the other, points in Kentucky on and south of a line beginning at Paducah, Ky. and extending along U.S. Highway 62 to Lexington, Ky. and thence along Interstate Highway 64 to Ashland, Ky., and points in West Virginia and Virginia, on and south of U.S. Highway 60.

(e) Between points in Arizona on and south of a line extending from the Arizona-California State Line along U.S. Highway 60 to Phoenix, Ariz., and thence along U.S. Highway 70 to the Arizona-New Mexico State Line, on the one hand, and, on the other, points in Missouri on and south of U.S. Highway 66; (f) between points in New Mexico, on the one hand, and, on the other, points in Louisiana, Mississippi, Alabama, Tennessee, Georgia, Florida, North Carolina, South Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Pennsylvania, West Virginia, that part of Arkansas on and east of U.S. Highway 67, and that part of Kentucky on and east of a line extending from the Kentucky-Tennessee State Line along U.S. Highway 31W to Bowling Green, Ky. and thence along U.S. Highway 63 to Maysville, Ky.; (g) between points in New Mexico on and south of U.S. Highway 66, on the one hand, and, on the other, points in Kentucky and Ohio; and (h) between points in New Mexico on and south of U.S. Highway 60, on the one hand, and, on the other, points in Indiana on and south of U.S. Highway 24. The purpose of this filing is to eliminate a gateway at the plant site of Western Foundry, Division of Woodward Corporation, at Tyler, Tex.

(8) *Iron and steel pipe and pipe fittings, cast iron meter boxes, manhole frames, and manhole covers* (except those which because of size or weight require the use of special equipment, and except pipe and pipe fittings, such as are included in the first findings of the Commission in *T. E. Mercer and G. E. Mercer, Extension—Oilfield Commodities*, 74 M.C.C. 459 and 543); (a) between Houston and Galveston, Tex. and points in Harris and Galveston Counties, Tex., on the one hand, and, on the other, points in Oklahoma, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Arkansas, Tennessee, Kentucky, Virginia, West Virginia, Ohio, Indiana, Michigan, Pennsylvania, Maryland, Delaware, New Jersey, and New York; (b) between points in Texas on and south of a line extending from Galveston, Tex. along U.S. Highway 75 to Houston, Tex., thence along U.S. Highway 90 to San Antonio, Tex., and thence along U.S. Highway 281 to Brownsville, Tex., on the one hand, and, on the other, points in Arkansas, that part of Oklahoma on and east of U.S. Highway 75, and that part of Kansas on and east of U.S. Highway 81; (c) between points in Texas on and east of a line extending from Brownsville, Tex. along U.S. Highway 77 to Victoria, Tex.,

thence along U.S. Highway 59 to Houston, Tex., and thence along U.S. Highway 75 to Galveston, Tex., on the one hand, and, on the other, points in Oklahoma and Kansas; and (d) between points in Morris, Upshur, Harrison, Wood, and Gregg counties, Tex., on the one hand, and, on the other, points in Minnesota, Iowa, Wisconsin, Illinois, Indiana, Ohio, Michigan, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New York, New Jersey, and that part of Kansas and Missouri on and north of U.S. Highway 40. The purpose of this filing is to eliminate a gateway at the plant site of Western Foundry, Division of Woodward Corporation, at Tyler, Tex.

(9) *Iron and steel pipe, pipe fittings, meter boxes, manhole frames, and manhole covers* (except those which because of size or weight require the use of special equipment, and except pipe and pipe fittings such as are included in the first findings of the Commission in *T. E. Mercer and G. E. Mercer, Extension—Oilfield Commodities*, 74 M.C.C. 459 and 543); (a) between Houston and Galveston, Tex., and points in Harris and Galveston Counties, Tex., on the one hand, and, on the other, points in Arizona, California, Nevada, Utah, Colorado, Nebraska, Wyoming, Idaho, Oregon, Washington, and New Mexico; (b) between points in Texas on and southeast of a line extending from Texarkana, Tex., along U.S. Highway 67 to Dallas, Tex., and thence along U.S. Highway 75 to Galveston, Tex., on the one hand, and, on the other, points in Arizona, California, Nevada, Utah, Nebraska, Wyoming, Idaho, Oregon, Washington, and that part of Colorado on and north of U.S. Highway 6; (c) between points in Colorado and New Mexico, on the one hand, and, on the other, points in Texas on and east of a line extending from Texarkana, Tex., along U.S. Highway 67 to Mt. Pleasant, Texas, thence along U.S. Highway 271 to Tyler, Tex., thence along U.S. Highway 69 to Lufkin, Tex., thence along U.S. Highway 59 to Houston, Tex., and thence along U.S. Highway 75 to Galveston, Tex.; (d) between points in Louisiana, on the one hand, and, on the other, points in New Mexico, Arizona, California, Nevada, Utah, Colorado, Wyoming, Idaho, Oregon, Washington, and points in Nebraska on and north of U.S. Highway 6; (e) between points in Louisiana on and south of a line extending from the Texas-Louisiana State Line along U.S. Highway 80 to Shreveport, La., thence along U.S. Highway 71 to junction with U.S. Highway 190, thence along U.S. Highway 190 to Baton Rouge, La., and thence along U.S. Highway 61 to New Orleans, La., on the one hand, and, on the other, points in Nebraska; and (f) between points in Texas on and within a line extending from Galveston, Tex., along U.S. Highway 75 to Buffalo, Tex., thence along U.S. Highway 79 to Round Rock, Tex., thence along U.S. Highway 81 to San Antonio, Tex., and thence along U.S. Highway 281 to Brownsville, Tex., on the one hand, and, on the other, points in Nebraska, Wyoming, Idaho, Oregon, Washington, and that part of California on and north

of Interstate Highway 80. The purpose of this filing is to eliminate a gateway at the plant site of Western Foundry, Division of Woodward Corporation, at Tyler, Tex.

(10) *Iron and steel pipe, tubing, and fittings*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (a) from Houston and Galveston, Tex., and points in Harris and Galveston Counties, Tex., to points in the United States (except Alaska, Hawaii, New Mexico, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina and South Carolina); (b) from Houston and Galveston, Tex., and points in Harris and Galveston Counties, Tex., to points in New Mexico on and northwest of a line extending from the Texas-New Mexico State Line along U.S. Highway 60 to Socorro, N. Mex., and thence along U.S. Highway 85 to El Paso, Tex.; (c) from points in Louisiana, to points in New Mexico, Arizona, California, Nevada, Utah, Colorado, Wyoming, Idaho, Oregon, Washington, Montana, North Dakota, South Dakota, and Nebraska; (d) from points in Louisiana on and west of a line extending from the Texas-Louisiana State Line along U.S. Highway 80 to Shreveport, La., thence along U.S. Highway 71 to junction with U.S. Highway 190, thence along U.S. Highway 190 to Baton Rouge, La., and thence along U.S. Highway 61 to New Orleans, La., to points in Oklahoma, Kansas, Iowa, Minnesota, and that part of Missouri on and west of U.S. Highway 71; (e) from points in Louisiana on and west of a line extending from the Texas-Louisiana State Line along U.S. Highway 80 to Shreveport, La., thence along U.S. Highway 71 to Alexandria, La., thence along U.S. Highway 167 to Abbeville, La., and thence along the Vermillion River to the Gulf of Mexico, to points in Indiana and Illinois on and north of U.S. Highway 24, Ohio on and north of U.S. Highway 30, and points in Wisconsin, Michigan; (f) from points in Morris, Upshur, Harrison, Wood and Gregg Counties, Tex., to points in Arkansas and Oklahoma, on and north of Interstate Highway 40, and all other states in the United States (except Alaska, Hawaii, Texas and Louisiana).

(g) From points in Texas on and southeast of a line extending from Texarkana, Tex., along U.S. Highway 67 to Dallas, Tex., and thence along U.S. Highway 75 to Galveston, Tex., to points in Montana, Minnesota, California, Nevada, Utah, Nebraska, North Dakota, South Dakota, Wyoming, Idaho, Oregon, Washington, Wisconsin, Arizona on and west of U.S. Highway 89, Iowa and Illinois on and north of U.S. Highway 20, Indiana on and north of U.S. Highway 24, and points in the United States in and east of Ohio, Michigan, West Virginia and Virginia; (h) from points in Texas on and east of a line extending from Texarkana, Tex., along U.S. Highway 67 to Mt. Pleasant, Tex., thence along U.S. Highway 271 to Tyler, Tex., thence along U.S. Highway 69 to Port Arthur, Tex., to points in Colorado, New Mexico, and Arizona; (i)

from points in Texas on and within a line extending from Galveston, Tex., along U.S. Highway 75 to Buffalo, Tex., thence along U.S. Highway 79 to Round Rock, Tex., thence along U.S. Highway 81 to San Antonio, Tex., thence along U.S. Highway 281 to Brownsville, Tex., to points in Oregon, Idaho, Washington, Montana, North Dakota, South Dakota, Iowa, Missouri, Arkansas, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Kentucky, Tennessee, Virginia, Ohio, West Virginia, Maryland, District of Columbia, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Vermont, Massachusetts, New Hampshire, and Maine; (j) from points in Texas on and east of a line extending from Brownsville, Tex., along U.S. Highway 77 to Victoria, Tex., thence along U.S. Highway 59 to Houston, Tex., thence along U.S. Highway 75 to Galveston, Tex., to points in Oklahoma on or east of Interstate Highway 35, Kansas on or east of U.S. Highway 283, and all points in Nebraska.

(k) from points in Texas on and south-east of a line extending from the Texas-Louisiana State Line along U.S. Highway 80 to Tyler, Tex., and thence along U.S. Highway 69 to Port Arthur, Tex., to points in Oklahoma, Kansas, Missouri, Iowa, Illinois, Indiana, Kentucky, and that part of Arkansas on and north of U.S. Highway 67 from Texarkana, Ark., to Little Rock, Ark., and Interstate Highway 40 from Little Rock, Ark., to West Memphis, Ark.; (l) from points in Texas on and within a line extending from Galveston, Tex., over U.S. Highway 75 to Dallas, Tex., thence along U.S. Highway 80 to Abilene, Tex., and thence over U.S. Highway 277 to Del Rio, Tex., to points in Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Kentucky, Tennessee, Virginia, West Virginia, Maryland, Delaware, District of Columbia, points in the United States in and east of New York, Pennsylvania and New Jersey, and points in Iowa on and east of U.S. Highway 65; and (m) from points in Texas on and south of U.S. Highway 82 to points in the United States in and east of Ohio, West Virginia and Virginia, and points in Kentucky, the lower Peninsula of Michigan, and Indiana on and north of U.S. Highway 36. The purpose of this filing is to eliminate a gateway at Gilmer, Tex. (11) *Aluminum articles* (except those requiring special equipment), from points in Mississippi on and south of U.S. Highway 82 to the District of Columbia and that part of Kentucky on and east of Interstate Highway 75. The purpose of this filing is to eliminate a gateway at the plant site of Planet Corporation, Inc. at Birmingham, Ala.

(12) *Iron and steel articles*, consisting of: (A) *Equipment, materials and supplies* used in the manufacture of mobile homes; (B) *material handling equipment, and equipment, materials and supplies* used in the manufacture of material handling equipment; and (C) *parts, attachments, and accessories*, used in connection with the commodities described in (A) and (B) above, (a) between points in Alabama on and south

of U.S. Highway 78, on the one hand, and, on the other, points in Missouri, Iowa, Minnesota, Wisconsin, Michigan, Illinois, Kansas, and that part of Indiana on and north of U.S. Highway 24; (b) between points in Alabama on and south-west of a line extending from the Alabama-Mississippi State line along U.S. Highway 78 to Birmingham, Ala., and thence over U.S. Highway 31 to Mobile, Ala., on the one hand, and, on the other, points in Ohio, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Indiana, and Kentucky on and west of Interstate Highway 65; (c) between points in Alabama on and north of U.S. Highway 80, on the one hand, and, on the other, points in Oklahoma; (d) between points in North Carolina and South Carolina, on the one hand, and, on the other, points in the United States in and west of Texas, Arkansas, Oklahoma, Kansas, Nebraska, Wyoming, and Montana (except Alaska and Hawaii); and (e) between points in Pennsylvania and Maryland, on the one hand, and, on the other, points in Arizona, New Mexico on and south of U.S. Highway 66, and California in and south of Marin, Contra Costa, San Joaquin, Stanislaus, Mariposa, Madera, Fresno, and Inyo Counties, Calif. The purpose of this filing is to eliminate a gateway at Winfield, Ala.

(13) *Iron and steel articles* consisting of: (A) *equipment, materials and supplies* used in the manufacture of mobile homes; (B) *material handling equipment, and equipment, materials and supplies* used in the manufacture of material handling equipment; and (C) *parts, attachments, and accessories*, used in connection with the commodities described in (A) and (B) above (except commodities which because of size or weight require the use of special equipment), (a) between points in Georgia, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) in and west of New Mexico, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota; (b) between points in Georgia on and south of U.S. Highway 278, on the one hand, and, on the other, points in Missouri, Iowa, Minnesota, and Wisconsin on and west of U.S. Highway 51; (c) between points in Florida on and south of Florida Highway 40, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) in and west of New Mexico, Oklahoma, Missouri, Illinois, Wisconsin, and Minnesota, Indiana on and north of a line extending from the Illinois-Indiana State Line along Interstate 70 to Indianapolis, Ind., and thence along Indiana Highway 37 to the Indiana-Ohio State Line, and the Upper Peninsula of Michigan and the Lower Peninsula on and west of a line extending from Bay City, Mich., along U.S. Highway 23 to Flint, Mich., thence along Michigan Highway 78 to Battle Creek, Mich., and thence along Michigan Highway 66 to the Michigan-Indiana Line; and (d) between points in Florida on and north of Florida Highway 40 and in and west of Leon and Jefferson Counties,

Fla., on the one hand, and, on the other, points in the United States (except Hawaii and Alaska) in and west of New Mexico, Colorado, Kansas, Missouri, Iowa, Wisconsin, and Minnesota, including points in Oklahoma on and north of U.S. Highway 66. The purpose of this filing is to eliminate the gateways at Gantersville and Winfield, Ala.

NOTE: This amended request for authority is intended to clarify applicant's original filing and eliminate requests for duplicating authority. An attempt has been made by the Commission to strike all portions of this amended request for authority which broaden or enlarge upon the request previously noticed in the Federal Register. Interested parties are advised that the rules promulgated in 49 CFR § 1065 made no provision for broadening amendment.

No. MC 107515 (Sub-No. 916G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, as described in the Appendix to the report in Modification of Permits-Packing House Products, 48 M.C.C. 628, from points in Louisiana, Mississippi, Alabama, North Carolina, South Carolina, Tennessee (except Nashville and McMinnville), to points in Arkansas, Kansas, Nebraska, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of Doraville, Ga. and Montgomery, Ala. (b) from Atlanta, Albany, Macon, Columbus, Griffin and Montezuma, Ga., and points in their commercial zones, and points within 10 miles of Atlanta, Ga., to points in Arkansas, Kansas, Nebraska, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Montgomery, Ala.

No. MC 107515 (Sub-No. 949G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, from points in Michigan, to points in Virginia, Mississippi, Louisiana, Texas, Arkansas, Oklahoma and Tennessee. The purpose of this filing is to eliminate gateways at Chicago, Ill.; Louisville and Adairsville, Ky.; Madison, Tenn.; Columbus, Ohio; Atlanta and Doarville, Ga.; Montgomery, Ala.; and Charlotte, Gatesville and Rocky Mount, N.C.

No. MC 108651 (Sub-No. 20G), filed June 3, 1974. Applicant: ROY B. MOORE, INC., Wilcox Drive, Kingsport, Tenn. 37662. Applicant's Daniel H. Moore, P.O. Box 928, Wilcox Drive, Kingsport, Tenn. 37662. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen foods), (1) from Rochester, N.Y. and points in

New York on and west of New York Highway 21 within 75 miles of Rochester, to points in West Virginia on, south and west of a line beginning at the Kentucky-West Virginia State Boundary line and extending along U.S. Highway 60 to intersection U.S. Highway 119, thence southwesterly along U.S. Highway 119 to the Kentucky-West Virginia State Boundary line; (2) from North East, Pa. and Fredonia, N.Y. and points within 25 miles of Fredonia, to points in West Virginia, on, south and west of a line beginning at the Kentucky-West Virginia State Boundary line and extending eastward along U.S. Highway 60 to intersection U.S. Highway 19, thence southerly along U.S. Highway 19 to intersection West Virginia Highway 16, thence southerly along West Virginia 16 to the West Virginia-Virginia State Boundary line; and (3) from North East, Pa. and Fredonia, N.Y. and points within 25 miles of Fredonia on and west of a line beginning at Silver Creek, N.Y. and extending southerly along N.Y. Highway 428 to intersection New York Highway 83, thence westerly along New York Highway 83, to intersection New York Highway 60, thence southerly along New York Highway 60 to Cassadaga, N.Y., thence southerly along N.Y. Highway 424 to intersection New York Highway 430, thence southwesterly along New York Highway 430 to the New York-Pennsylvania State Boundary line, to points in Bell, Harlan and Letcher Counties, Ky. The purpose of this filing is to eliminate a gateway at Winchester, Va.

No. MC 110683 (Sub-No. 98G), filed June 4, 1974. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cumberland, Hagerstown, and Baltimore, Md., on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Garrett County, Md. (2) Between points in Augusta, Rockbridge, and Rockingham Counties, Va., on the one hand, and, on the other, points in Pennsylvania within 100 miles of Fairview, N.J., and west of a line beginning at Philadelphia, Pa., thence over the Pennsylvania Turnpike with its intersection with U.S. Highway 22, thence over U.S. Highway 22 with its junction with Interstate 80, and thence over Interstate 80 to the Pennsylvania-New Jersey State line at or near East Stroudsburg, Pa., and points in New Jersey within 100 miles of Fairview, N.J. The purpose of this filing is to eliminate the gateway of Trenton, N.J. (B) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, com-

modities requiring special equipment, and those injurious or contaminating to other lading in truckload lots) (1) between points in Ohio west and south of a line beginning at Portsmouth, Ohio, extending along U.S. Highway 23 to Marion, Ohio, thence along U.S. Highways 30S to Delphos, Ohio, and thence along U.S. Highway 30 to the Ohio-Indiana State line, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio. (2) between points in that part of North Carolina west of U.S. Highway 301 and points in Kentucky. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

(C) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between points in North Carolina east of U.S. Highway 301, on the one hand, and, on the other, points in that part of West Virginia west of U.S. Highway 220, and Virginia south and west of a line beginning at the North Carolina-Virginia State line, and extending along U.S. Highway 501 to Lynchburg, thence along U.S. Highway 29 to junction U.S. Highway 60, and thence west along U.S. Highway 60 to the West Virginia-Virginia State line, including points on the indicated portions of the highways specified, (2) between points in the next-above specified territory, on the one hand, and, on the other, points in the next-above specified West Virginia territory, and (3) between points in the next above-described territories of North Carolina, Virginia, and West Virginia, on the one hand, and, on the other, points in Ohio; those in that part of Indiana south of U.S. Highway 40 and east of U.S. Highway 31, those in Pennsylvania west of U.S. Highway 219, and thence in Kentucky east of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 15 to Jackson, Ky., thence along a line extending from Jackson through Olive Hill, Ky., to Portsmouth, Ohio, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Rockbridge County, Va.

(D) *General commodities* (except those of unusual value, granite, stone, heavy machinery, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between points in South Carolina, on the one hand, and, on the other, points in that part of West Virginia west of U.S. Highway 220, and Virginia south and west of a line beginning at the North Carolina-Virginia State line, and extending along U.S. Highway 501 to Lynchburg, thence along U.S. Highway 29 to junction U.S. Highway 60, and thence west along U.S. Highway 60 to the West Virginia-Virginia State line, including points on

the indicated portions of the highways specified and (2) between points in the next-above described territories of Virginia and West Virginia, on the one hand, and, on the other, points in Ohio; those in that part of Indiana south of U.S. Highway 40 and east of U.S. Highway 31, those in Pennsylvania west of U.S. Highway 219, and those in Kentucky east of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 15 to Jackson, Ky., thence along a line extending from Jackson through Olive Hill, Ky., to Portsmouth, Ohio, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of Charlotte, N.C. and Bluefield, W. Va.

No. MC 113843 (Sub-No. 218G), filed March 17, 1975. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Frozen potatoes and potato products*, from Portland, Maine and points in Aroostook County, Maine, to points in that part of Pennsylvania west of the Susquehanna River, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. The purpose of this filing is to eliminate the gateway of New York, N.Y. (2) *Frozen potatoes and frozen potato products*, (a) from Portland, Maine and points in Aroostook County, Maine, to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (b) From Portland, Maine and points in Aroostook County, Maine, to Springfield, Ill., Louisville, Ky., St. Louis, Mo., Sioux City and Davenport, Iowa; Grand Forks, N. Dak., and Sioux Falls, S. Dak. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (c) From Portland, Maine and points in Aroostook County, Maine, to points in Colorado. The purpose of this filing is to eliminate the gateways of Brockport, Morton, and Le Roy, N.Y. (3) *Canned potato products*, from Portland, Maine and points in Aroostook County, Maine, to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateways of Hamlin, Holley, and Williamson, N.Y.

No. MC 114273 (Sub-No. 187G), filed June 13, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Chicago, Ill. and Portage, Ind., to points in Iowa within 100 miles of Cedar Rapids, Iowa. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa; (2) *machinery, ma-*

chinery parts, and binder twine, from Chicago, Sandwich, and Rock Island, Ill., to points in Iowa within 100 miles of Cedar Rapids, Iowa. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa; and (3) *farm implements and machinery*, from Chicago, Sandwich, East Moline, Kewanee, Rock Island, Batavia, and Moline, Ill., and Milwaukee, Janesville and Racine, Wis., to points in Iowa within 100 miles of Cedar Rapids, Iowa. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 117574 (Sub-No. 255G), filed June 4, 1974. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tools, materials and supplies* used in connection with the erection, and construction of sewage, water, and refuse treatment systems (except commodities in bulk), and, *pipe and conduit*, and *pipe and conduit fittings* (except commodities which because of size or weight require the use of special equipment), (a) Between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, on the one hand, and, on the other, points in the United States (except points in Alabama, Alaska, Connecticut, Delaware, District of Columbia, Hawaii, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin); and (b) From points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, to points in Iowa, Minnesota, Missouri, and Wisconsin. The purpose of this filing is to eliminate the gateway at Titusville, Pa.

(2) *Tools, materials and supplies* used in connection with the erection, and construction of sewage, water, and refuse treatment systems (except commodities in bulk), and *conduit and pipe*, and *attachments, parts, and fittings*, therefor, (except commodities which because of size or weight require the use of special equipment), Between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, West

Virginia, Wisconsin, and the District of Columbia. The purpose of this filing is to eliminate the gateways at Orangeburg, N.Y. and Portage County, Ohio. (3) *Plastic pipe and conduit*, From points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, to points in Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateway at Terre Haute, Ind.

(4) *Conduit and pipe*, and *attachments, parts, and fittings* therefor (except commodities which because of size or weight require the use of special equipment), (a) Between points in Alabama, Louisiana, Mississippi, and Tennessee, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (b) Between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways at Orangeburg, N.Y. and Portage County, Ohio. (5) *Pipe and conduit*, and *pipe and conduit fittings* (except commodities which because of size or weight require the use of special equipment), From points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, West Virginia, and Wisconsin, to points in Iowa, Minnesota, Missouri, and Wisconsin. The purpose of this filing is to eliminate the gateways at Orangeburg, N.Y. and Titusville, Pa.

(6) *Pipe and conduit and pipe and conduit fittings* (except commodities which because of size or weight require the use of special equipment), Between points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, West Virginia, and Wisconsin, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways at Titusville, Pa. and Orangeburg, N.Y. (7) *Plastic pipe and conduit*, *attachments, parts, and fittings* therefor

(except those which because of size or weight require the use of special equipment), From Springfield, Ill., and Terre Haute, Ind., to points in Illinois, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, Nebraska, Kentucky, and Michigan. The purpose of this filing is to eliminate the gateways at points in Portage County, Ohio. (8) *Conduit and pipe*, *construction materials*, *building and contractor's equipment*, *supplies and materials*, building and construction materials, and supplies; VIZ: conduit and pipe, Between Martinsburg, West Virginia, New York, New York, and points and places in Virginia, Maryland, Pennsylvania, Delaware, New Jersey, and the District of Columbia, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Idaho, Kansas, Kentucky, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways at Shrewsbury, Pa., and Titusville, Pa.

No. MC 117574 (Sub-No. 256G), filed June 4, 1974. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine St., P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements, agricultural machinery, tractors* (other than truck tractors), *incidental machinery, attachments, and parts* when moving with such implements, machinery, or tractors, and trailers for the transportation of the above-named commodities (other than those designed to be drawn by passenger automobiles), and except commodities requiring the use of special equipment, between points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina, on the one hand, and, on the other, points in the United States, except Ohio, and restricted against the transportation of shipments originated at points in Black Hawk, Dubuque and Polk Counties, Iowa. The purpose of this filing is to eliminate the gateways of Nunda, Batavia, and Shortsville, N.Y., Clifton, N.J., Belleville, Mountville, Intercourse, New Holland, Washington, and Lancaster, Pa. (2) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in Maine, New Hampshire, Vermont, on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Ohio, Pennsylvania, District of Columbia, Virginia, West Virginia, and North Carolina, including heavy machinery and contractor's equipment, restricted to shipments handled on trailers. The purpose of this filing is to eliminate the gateways of Scranton and New Freedom, Pa., York,

Dauphin, and Adams Counties, Pa., and Columbus, Ohio, and points within 80 miles of Columbus.

(3) *Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies* when moving in connection therewith including heavy machinery and contractor's equipment, (a) between points in Connecticut, Massachusetts, and Rhode Island, on the one hand, and, on the other, points in New York, New Jersey, Ohio, Illinois, Indiana, Kentucky, Michigan, Minnesota, Pennsylvania, Wisconsin, Delaware, Maryland, District of Columbia, North Carolina, South Carolina, Georgia, and Florida, restricted to shipments handled on trailers. The purpose of this filing is to eliminate the gateways of Scranton and New Freedom, Pa., York and Adams Counties, Pa., Columbus, Ohio, and points within 80 miles thereof. (b) between points in New York, New Jersey, Delaware, Maryland, District of Columbia, Pennsylvania, Ohio, North Carolina, West Virginia, and Virginia, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Wisconsin, North Carolina, South Carolina, Georgia, and Florida, restricted to shipments handled on trailers. The purpose of this filing is to eliminate the gateways of Scranton, New Freedom, Du Bois, and Lewiston, Pa., York and Fulton Counties, Pa., Columbus, Ohio, and points within 80 miles thereof. (c) between points in New York, New Jersey, Ohio, West Virginia, Pennsylvania, Delaware, Maryland, Virginia, District of Columbia, and North Carolina, on the one hand, and, on the other, points in New York, New Jersey, Ohio, West Virginia, Pennsylvania, Delaware, Maryland, Virginia, District of Columbia, and North Carolina, restricted to shipments handled on trailers. The purpose of this filing is to eliminate the gateways of Scranton, New Freedom, Du Bois, and Lewiston, Pa., York and Fulton Counties, Pa., Columbus, Ohio, and points within 80 miles thereof.

(4) *Self-propelled contractor's tractor equipment, each weighing 15,000 pounds, and related machinery, tools, parts, and supplies* moving in connection therewith including heavy machinery, between points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, Pennsylvania, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, Ohio, North Carolina, South Carolina, Georgia, Florida, Illinois, Indiana, Kentucky, Michigan, and Wisconsin, on the one hand, and, on the other, points in the United States (except points in Minnesota, North Dakota, Washington, Montana, Idaho, and Oregon), restricted to shipments moving on trailers. The purpose of this filing is to eliminate the gateways of Scranton, Bradford, and New Freedom, Pa., York County, Pa., Columbus, Ohio, and points within 80 miles thereof, and Churubusco, Ind. (5) *Agricultural implements, and agricultural machinery, and agricultural machinery parts and accessories* moving in connection with shipments of such commodities, from points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, and North Carolina, to points in Ohio. The purpose of this filing is to eliminate the gateways of New Holland, Mountville, Belleville, and Intercourse, Pa.

(6) *Agricultural implements, agricultural machinery, agricultural implements and machinery parts, farm equipment, except commodities which because of size or weight require the use of special equipment, from Canton, Chicago, East Moline, Joliet, Melrose Park, Quincy, Rock Island, Rockford, Moline, and West Chicago, Ill., Richmond, South Bend, Columbia City, Churubusco, and La Porte, Ind., Battle Creek, Mich., Bucyrus, Coldwater, Gallon, Loudonville, Mansfield, Springfield, Bellevue, Geneva, and Zanesville, Ohio, Tulsa and Claremore, Okla., Louisville, Ky., Statesville and Tarboro, N.C., Memphis, Tenn., Racine and West Bend, Wis., Minneapolis and Owatonna, Minn., Burlington and Bettendorf, Iowa, East Rochester, N.Y., and points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New York, New Jersey, Delaware, Maryland, Virginia, Pennsylvania, and North Carolina, to points in Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, Washington, Oregon, and California. The purpose of this filing is to eliminate the gateways of Batavia and Shortsville, N.Y., Churubusco, Ind., New Holland, Mountville, Belleville, and Intercourse, Pa. (7) *Agricultural machinery, implements, and parts, other than hand, as described in Sections (B) and (C) of Appendix XII to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from Coldwater, Ohio, to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, and points in Pennsylvania in and west of the counties of McKean, Cameron, Clearfield, Indiana, Westmoreland, and Fayette. The purpose of this filing is to eliminate the gateway of Potter County, Pa.**

No. MC 117574 (Sub-No. 257G), filed June 4, 1974. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine St., P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: (1) *Machinery*, between points in New York, New Jersey, Delaware, Maryland, Virginia, and Martinsburg, West Virginia, on the one hand, and, on the other, all points in Ohio, New York, New Jersey, Delaware, Maryland, Connecticut, Massachusetts, Rhode Island, Virginia, District of Columbia, North Carolina, Indiana, Kentucky, Michigan, West Virginia, and Pennsylvania. The purpose of this filing is to eliminate the gateways of York County, Pa., Columbus, Ohio, and points within 80 miles thereof. (2) *Machinery* (except

articles which because of size or weight require the use of special equipment), from points in Michigan, Indiana, Kentucky, Ohio, New York, New Jersey, Pennsylvania, West Virginia, Delaware, Maryland, Virginia, District of Columbia, North Carolina, Connecticut, Massachusetts, and Rhode Island, to points in Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, Washington, Oregon, and California. The purpose of this filing is to eliminate the gateways of DuBois, Lewistown, and Lancaster, Pa., Columbus, Ohio, and points within 80 miles thereof, and York County, Pa.

(3) *Fans and blowers*, which because of size or weight require the use of special equipment, and fans and blowers which do not require the use of special equipment, but which are moving as part of the same shipment with the commodities specified above, from points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, District of Columbia, Virginia, North Carolina, West Virginia, Ohio, Indiana, Illinois, Kentucky, and Michigan, to points in the United States (including Alaska, but excluding Hawaii); (4) *Air, water, and gas cooling and heating equipment and materials, accessories, and supplies* used in the installation thereof, which because of size or weight require the use of special equipment, and commodities listed above which do not require the use of special equipment when moving in the same vehicle or as part of the same shipment with commodities above, between points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, West Virginia, Ohio, Pennsylvania, Indiana, and Kentucky, on the one hand, and, on the other, points in the United States (except Hawaii, Washington, Oregon, Nevada, California, Montana, Wyoming, Utah, Idaho, South Dakota, and North Dakota); (5) *Compressors, pumps, blowers, condensers, drilling equipment, electric and pneumatic tools, heat exchangers, hoisting equipment, engines* (except aircraft, rocket, and missile engines), and mining equipment and parts, attachments and accessories for the commodities specified above, from points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, Ohio, Pennsylvania, Indiana, Kentucky, and Michigan, to points in Alabama, California, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia;

(6) *Heat exchangers and equalizers* for air, gas, liquids; machinery and

equipment for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas or liquids; and parts, attachments, and accessories for use in the installation and operation of the above named items, from the plant site of the Trane Company at Lexington, Kentucky, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, District of Columbia, Virginia, North Carolina, Ohio, Indiana, Michigan, and Kentucky; (7) (a) *Heat exchangers or equalizers* for air, gas, or liquids; (b) *Equipment and machinery* for heating, cooling, conditioning, humidifying, and dehumidifying; and (c) *parts, attachments and accessories* for use in connection with the installation and use of the items in (7) (a) and (7) (b) above, from La Crosse, Wisconsin, to points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, District of Columbia, Virginia, North Carolina, Ohio, Indiana, Kentucky, Michigan, and West Virginia;

(8) *Boilers, water purifying and water conditioning equipment, and materials, accessories, and supplies* used in the shipping and installation thereof, when moving in connection therewith, from points in Indiana, Kentucky, Michigan, Ohio, New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Delaware, Pennsylvania, Maryland, Virginia, West Virginia, and North Carolina, to points in the United States (except points in California, Oregon, Washington, Utah, Nevada, North Dakota, South Dakota, Montana, Wyoming, Idaho, and Hawaii); Restricted to the transportation of the above described commodities which because of size or weight do not require the use of special equipment, is limited to the movement thereof in the same vehicle or vehicles as part of the same shipment, with the commodities named above, which because of size or weight do require the use of special equipment; (9) (a) *Water Heaters, generators, and heating equipment*, which because of size or weight require the use of special equipment, and (b) *of water heaters, generators, and heating equipment, and accessories* therefor, which do not require the use of special equipment, when moving in the same vehicle at the same time with the commodities in (9) (a) above, from points in Indiana, Kentucky, Michigan, Ohio, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and North Carolina, to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin;

(10) (a) *Heating and Steam Generating Equipment, and related accessories*

and equipment used in connection with heating and steam generating equipment, the transportation of which because of size or weight require the use of special equipment, and (b) *heating and steam generating equipment, and related accessories and equipment*, the transportation of which does not require the use of special equipment, when moving in the same vehicle as part of the same shipment with commodities specified in (10) (a) the transportation of which because of size or weight, does not require the use of special equipment, Between points in Indiana, Kentucky, Michigan, Ohio, Connecticut, Delaware, Massachusetts, Rhode Island, New York, New Jersey, the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, and North Carolina, on the one hand, and, on the other, points in the United States, except points in Alaska, Hawaii, Washington, Oregon, Nevada, California, Montana, Wyoming, Utah, Idaho, South Dakota, North Dakota, and Pennsylvania; (11) *Pressure Vessels, storage tanks, condensers, evaporators, heat exchangers, and incidental equipment and parts* designed for installation of the items shown above, when transported as part of the shipment of such items, from points in Indiana, Kentucky, Michigan, Ohio, New York, New Jersey, Delaware, Maryland, Pennsylvania, Connecticut, Massachusetts, Rhode Island, the District of Columbia, Virginia, West Virginia, and North Carolina, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia;

(12) *Storage Tanks and processing equipment, and parts and accessories* for storage tanks and processing equipment, Between points in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, and North Carolina, on the one hand, and, on the other, points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and except ports of entry on the United States-Canadian Boundary Line located in North Dakota and Minnesota); Restricted to the transportation of the articles described above which do not require the use of special equipment, is limited to transportation on the same vehicle or in the same shipment with such articles, which because of size or weight require the use of special equipment; (13) (a) *Printing Presses, Printing Press Parts and sub-assemblies, and equipment* used in the operation of printing presses, the transportation of which, because of size or weight requires the use of special equipment, and, (13) (b) *Printing Presses, Printing Press Parts and sub-assemblies, and equipment* used in the operation of printing presses, the trans-

portation of which, because of size or weight does not require the use of special equipment, when moving in the same vehicle with the commodities described in (13) (a), from points in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, Connecticut, Massachusetts, Rhode Island, the District of Columbia, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and North Carolina, to points in the United States east of the Continental Divide (except points in North Carolina, South Carolina, Florida, and Georgia);

(14) (a) *Welding, baking, and chemical mixing and blending equipment, and parts* for and sub-assemblies of welding, baking, and chemical mixing and blending equipment, the transportation of which because of size or weight requires the use of special equipment; and (b) *Welding, baking, and chemical mixing and blending equipment, and parts* for and sub-assemblies of welding, baking, and chemical mixing and blending equipment, the transportation of which because of size or weight does not require the use of special equipment, when moving in the same vehicle with the commodities described in (14) (a); from points in Indiana, Kentucky, Michigan, Ohio, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, District of Columbia, Virginia, West Virginia, and North Carolina to points in the United States east of the Continental Divide (except points in North Carolina, South Carolina, Florida, and Georgia); (15) (a) *Turbines, Steam Condensers, Feed Water Heaters, and parts thereof, iron and steel castings and forgings*, which because of size or weight require the use of special equipment; and (b) *Turbines, Steam Condensers, Feed Water Heaters, and parts thereof, iron and steel castings and forgings*, which do not require the use of special equipment, when moving on the same bill of lading, on the same vehicle, at the same time, with the commodities described in (15) (a) above; between points in Indiana, Kentucky, Michigan, Ohio, Connecticut, Delaware, Massachusetts, Rhode Island, the District of Columbia, Pennsylvania, New York, New Jersey, Maryland, Virginia, West Virginia, and North Carolina, on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia;

(16) (a) *Transformers*, which because of size or weight require the use of special equipment; and (b) *Transformers*, which because of size or weight do not require the use of special equipment, when moving in mixed shipments on the same vehicle with the items in (1) above; between points in Indiana, Kentucky, Michigan, Ohio, New York, New Jersey, Con-

necticut, Massachusetts, Rhode Island, Delaware, the District of Columbia, Maryland, Virginia, West Virginia, and North Carolina, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Columbus, Ohio, and points within 80 miles thereof, York, Fulton, and Adams Counties, Pa., Lancaster, Lebanon, Athens, East Stroudsburg, Manheim, Downingtown, York, Philadelphia, and Pittsburgh, Pa., Phillipsburg, N.J., Lexington, Ky., La Crosse, Wis., and Rochester, N.Y.

No. MC 125294 (Sub-No. 8G), filed March 10, 1975. Applicant: HILLDRUP TRANSFER & STORAGE CO., INC., 510 Essex St., P.O. Box 745, Fredericksburg, Va. 22401. Applicant's representative: Stanley I. Goldman, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods as defined by the Commission, between points in South Carolina, Florida, Tennessee, and West Virginia, on the one hand, and, on the other, points in Pennsylvania, New York, Virginia, Maryland, Delaware, New Jersey, Rhode Island, Georgia, and North Carolina. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 127651 (Sub-No. 27G), filed June 5, 1974. Applicant: EVERETT G. ROEHL, INC., 201 West Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy J. Johnson, Suite 100, 4506 Regent Street, Madison, Wis. 53705. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Lumber; (a) from points in Minnesota south of U.S. Highway 12, to points in Illinois. The purpose of this filing is to eliminate the gateway of Quincy (Adams County), Wis. (b) from points in Minnesota north of U.S. Highway 12, to points in Illinois north of U.S. Highway 66. The purpose of this filing is to eliminate the gateway of Quincy (Adams County), Wis. (c) from points in Minnesota north of a line beginning at the Minnesota-North Dakota State Boundary Line and extending along U.S. Highway 10 to intersection Minnesota Highway 95, and thence easterly along Minnesota Highway 95 to the Minnesota-Wisconsin State Boundary Line, to points in the Southern Peninsula of Michigan north of Michigan Highway 21. The purpose of this filing is to eliminate the gateway of Quincy (Adams County), Wis. (d) from points in Minnesota, to points in the Northern Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Quincy (Adams County), Wis. (e) from points in Minnesota, to points in Iowa,

The purpose of this filing is to eliminate the gateway of Quincy (Adams County), Wis. (2) lumber (except plywood and veneer), from points in Minnesota (except points in that part of Minnesota north and east of a line beginning at the International Boundary Line between the United States and Canada and extending along U.S. Highway 71 to intersection Minnesota Highway 6, thence along Minnesota Highway 6 to intersection Minnesota Highway 38, thence southerly along Minnesota Highway 38 to intersection U.S. Highway 169, thence southerly along U.S. Highway 169 to intersection Minnesota Highway 210, thence easterly along Minnesota Highway 210 to the Minnesota-Wisconsin State Boundary Line, and that part of Minnesota east of U.S. Highway 63, to Falls City, Nebr. The purpose of this filing is to eliminate the gateway of Onalaska, Wis.

No. MC 127974 (Sub-No. 4G), filed February 5, 1975. Applicant: P. LIEDT-KA TRUCKING, INC., 110 Patterson Avenue, Trenton, N.J. 08610. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Contractors' equipment and such commodities as require specialized handling or rigging because of size or weight, (1) between Bangor, Pa., and points in Pennsylvania within 125 miles of Bangor, on the one hand, and, on the other, points in Delaware, Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Camden, N.J. (2) Between points in New Jersey, on the one hand, and, on the other, points in Maryland and the District of Columbia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa. (3) Between points in New Jersey, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway at Feasterville, Pa. (4) Between points in New York, on the one hand, and, on the other, points in Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Conshohocken, Pa.

INTERSTATE COMMERCE COMMISSION OFFICE OF PROCEEDINGS

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

NOTICE

MAY 1, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation. Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1042 (Sub-No. E1), filed May 13, 1974. Applicant: C. P. T. FREIGHT, INC., 2600 Calumet Avenue, Hammond, Ind. 46320. Applicant's representative: E. M. Heisterberg (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Hammond, Whiting and East Chicago, Ind., on the one hand, and, Princeton, Peoria, Rockford, Woodstock, Dixon, and Kankakee, Ill. The purpose of this filing is to eliminate the gateway of Gary, Ind.

No. MC 5470 (Sub-No. E18), filed May 20, 1974. Applicant: TAJON, INC., R.D. No. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligot, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Alloys, ores, dry fertilizer, clay, petroleum coke, coal tar pitch, pitch prell and scrap metal, in dump vehicles between points in the Counties of Allegheny and Washington, Pa., on the one hand, and, on the other, points in New York on and north of Interstate Highway 90 beginning at Buffalo, N.Y., thence along to Albany, N.Y., thence along U.S. Highway 20 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateways of any railroad in Ash-tabula County (Conneaut), Ohio, and points in Pennsylvania within the radius of 60 miles of such railroad (Erie, Pa.).

No. MC 5470 (Sub-No. E75), filed May 29, 1974. Applicant: TAJON, INC., R.D. 5 Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligot, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Alloys, ores, and pig iron, in dump vehicles, (a) between Bridgeport, Conn., and Newark, N.J., on the one hand, and, on the other, points in Indiana and Kentucky; and (b) between Newport News, Va., on the one hand, and, on the other, points in Indiana and points in Kentucky on and west of Interstate Highway 75. The purpose of this filing is to eliminate the gateway of Portsmouth, Ohio.

No. MC 14321 (Sub-No. E15), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Mississippi, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Arkansas.

No. MC 14321 (Sub-No. E16), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Nebraska, on the one hand, and, on the other, points in Alabama, Georgia, South Carolina, Florida, and Louisiana, (2) between Scottsbluff, Nebr., on the one hand, and, on the other, Williamson, W. Va. and Paducah, Ky., (3) between Ansley, Nebr., on the one hand, and, on the other, Paducah, Ky., (4) between points in that part of Nebraska on and west of a line beginning at the Kansas-Nebraska State line and extending along Missouri Highway 15 to Fairburg, thence along U.S. Highway 136 to junction U.S. Highway 81, thence along U.S. Highway 81 to Strang, thence along Missouri Highway 74 to junction U.S. Highway 281, thence along U.S. Highway 281 to Grand Island, thence along Missouri Highway 2 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line, on the one hand, and, on the other, points in West Virginia, and (5) between Beatrice, Nebr., on the one hand, and, on the other, Huntington, Wheeling, and Charleston, W. Va. The purpose of this filing is to eliminate the gateways of Eureka, Kans., and points in Missouri.

No. MC 14321 (Sub-No. E17), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Oklahoma, on the one hand, and, on the other, points in Louisiana, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont, Connecticut, Maryland, New Jersey, New York, Pennsylvania, Delaware, Kentucky, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Arkansas and points in Missouri or Tennessee.

No. MC 14321 (Sub-No. E18), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph

W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Texas, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of points in Arkansas and points in Tennessee or Alabama.

No. MC 14321 (Sub-No. E19), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Texas, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateways of points in Arkansas and points in Tennessee and Alabama.

No. MC 14321 (Sub-No. E27), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in that part of Colorado on and south of a line beginning at the Kansas-Colorado State line thence along U.S. Highway 40 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Colorado-Utah State line, on the one hand, and, on the other, points in that part of Illinois on, south and east of a line beginning at Moline, thence along Illinois Highway 2 to Rockford, thence along U.S. Highway 51 to the Illinois-Wisconsin State line, (2) between points in that part of Illinois on and south of a line beginning at Alton and extending along Illinois Highway 140 to junction Interstate Highway 55, thence along Interstate Highway 55 to Springfield, thence along Illinois Highway 54 to Farmer City, thence along U.S. Highway 150 to Urbana-Champaign, thence along Interstate Highway 74 to the Illinois-Indiana State line, on the one hand, and, on the other, points in Colorado, and (3) between points in Illinois, on the one hand, and, on the other, points in that part of Colorado on and south of Interstate Highway 70. The purpose of this filing is to eliminate the gateways of points in Missouri and Eureka, Kans.

No. MC 14321 (Sub-No. E28), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in that part of Missouri on and south of Interstate Highway 70, on the one hand, and, on the other, points in Colorado, (2) between points in that part of Missouri on, north and east of a line

beginning at the Iowa-Missouri State line and extending along U.S. Highway 169 to St. Joseph, thence along U.S. Highway 36 to Hannibal, on the one hand, and, on the other, points in that part of Colorado on, west and south of a line beginning at the New Mexico-Colorado State line and extending along Interstate Highway 25 to Colorado Springs, thence along U.S. Highway 24 to Dowd, thence along U.S. Highway 6/24 to the Colorado-Utah State line, (3) between points in Colorado, on the one hand, and, on the other, points in Missouri in and south of Scott, Stoddard, Butler, Carter, Shannon, Texas, Wright, Webster, Greene, Lawrence, and Jasper Counties, and (5) between points in Colorado, on the one hand, and, on the other, points in that part of Missouri on, south and east of a line beginning at the Kansas-Missouri State line and extending along Missouri Highway 92 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateway of Eureka, Kans.

No. MC 52659 (Sub-No. E8), filed June 4, 1974. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th St., Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck bodies*, from Utah, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan (except that part of the Upper Peninsula west of a line beginning at Lake Superior and U.S. Highway 45 near Ontonagon, Mich., going south along U.S. Highway 45 to the Wisconsin border near Watersmeet, Mich.), Mississippi (except that part of Mississippi west of a line beginning at the Tennessee border and U.S. Highway 61 near Eudora, Miss., going south on U.S. Highway 61 to U.S. Highway 49E, thence along U.S. Highway 49E to U.S. Highway 49, thence along U.S. Highway 49 to U.S. Highway 90, thence along U.S. Highway 90 to the Gulf of Mexico near Gulfport, Miss.), St. Louis County, Mo., New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin (except that part of Wisconsin west of a line beginning at the Michigan border and Wisconsin Highway 55 near Crandon, Wisc., thence along Wisconsin Highway 55 to junction Wisconsin Highway 52, thence along Wisconsin Highway 52 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 49, thence along Wisconsin Highway 49 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois border near Beloit, Wisc.), and the District of Columbia, restricted against

the transportation of fuel tanks from Utah to points in Missouri and Tennessee. The purpose of this filing is to eliminate the gateway of Mattoon, and Coles County, Ill.

No. MC 52659 (Sub-No. E9), filed June 4, 1974. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th St., Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truck bodies*, from Idaho, to points in Alabama, that part of Arkansas, on and east of a line beginning at the Missouri border and U.S. Highway 63 near Mammoth Springs, Ark., thence along U.S. Highway 63 to Arkansas Highway 1, thence along Arkansas Highway 1 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Louisiana border near Eudora, Ark., Connecticut, Delaware, Florida, Georgia, that part of Louisiana on and east of a line beginning at the Mississippi border and U.S. Highway 61 near St. Francisville, thence along U.S. Highway 61 to junction Louisiana Highway 10, thence along Louisiana Highway 10 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction Louisiana Highway 77, thence along Louisiana Highway 77 to junction Louisiana Highway 75, thence along Louisiana Highway 75 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 20, thence along Louisiana Highway 20 to junction U.S. Highway 90, thence along U.S. Highway 90 to an imaginary line from Gibson, La., to the Gulf of Mexico, Maine, Maryland, Massachusetts, Michigan (Lower Peninsula), Mississippi, Missouri (except that part of Missouri west of a line beginning at U.S. Highway 54 and the Mississippi River, near Louisiana, thence along U.S. Highway 54 to junction Missouri Highway 161, thence along Missouri Highway 161 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 28, thence along Missouri Highway 28 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Arkansas border near Thayer, Mo., New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, that part of Wisconsin on, south and east of a line beginning at Wisconsin Highway 33 and Lake Michigan, near Port Washington, Wisc., thence along Wisconsin Highway 33 to junction Wisconsin Highway 67, thence along Wisconsin Highway 67 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 120, thence along Wisconsin Highway 120 to the Illinois border near

Lake Geneva, Wisc., and the District of Columbia; and

(2) *Truck bodies*, from Idaho, to points in Kentucky, Ill., (except that part of Illinois on and north of a line beginning at Illinois Highway 140 and the Mississippi River, near Alton, Ill., thence along Illinois Highway 140 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Indiana border near Paris, Ill.), Indiana (except that part of Indiana on and north of a line beginning at the Illinois border and U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 69, thence along Interstate Highway 69 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Ohio border near Lynn, Ind.), Ohio (except that part of Ohio on and north of a line beginning at the Indiana border and U.S. Highway 36 near Palestine, Ohio, thence along U.S. Highway 36 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highway 161, thence along Ohio Highway 161 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Ohio Highway 541, thence along Ohio Highway 541 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania border near Steubenville, Ohio). Restricted in (1) against the transportation of fuel tanks to Arkansas, Louisiana, Missouri, and Tennessee, and (2) against the transportation of fuel tanks to Kentucky, Illinois, and Indiana. The purpose of this filing is to eliminate the gateways of (1) Mattoon, Coles County, Ill., and (2) Coles County, Ill., and St. Clair, Mo.

No. MC 52657 (Sub-No. E10), filed June 4, 1974. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th St., Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck bodies*, between points in Oregon, on the one hand, and, on the other, points in Alabama, Arkansas (except that portion of Arkansas northwest of a line beginning at or near Eudora, Ark., thence along U.S. Highway 65 to the junction of U.S. Highway 67 at Little Rock, Ark., thence along U.S. Highway 67 to the Arkansas-Missouri State line near Corning, Ark.), Connecticut, Delaware, Florida, Georgia, Indiana (except that portion of Indiana on, west and north of a line beginning at the Kentucky-Indiana State line near Evansville, Ind., thence along U.S. Highway 41 to junction U.S. Highway 40 at Terre Haute, thence along U.S. Highway 40 to the junction of U.S. Highway 69, thence along U.S. Highway 69 to junction Indiana Highway 67 to Muncie, Ind., thence along Indiana Highway 67 to the Indiana-Ohio State line near Union City, Ind.), Kentucky (except that portion of

Kentucky on, north and west of a line beginning at the Tennessee-Kentucky State line near Fulton, Ky., thence along U.S. Highway 45 to the junction of U.S. Highway 62 at Paducah, Ky., thence along U.S. Highway 62 to the junction of U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line near Henderson, Ky.), Louisiana (except that portion of Louisiana on and northwest of a line beginning at or near New Orleans, thence along U.S. Highway 61 to the Louisiana-Mississippi State line near Jackson, Miss.), Maine, Maryland, Massachusetts, Michigan (Lower Peninsula), Mississippi (except that portion of Mississippi on and west of a line beginning at or near Woodville, Miss.).

Thence along U.S. Highway 61 to the Mississippi River near Vicksburg, Miss.), Missouri (except that portion of Missouri on and northwest of a line beginning at the Arkansas-Missouri State line near Naylor, Mo., thence along U.S. Highway 67 to the junction of Interstate Highway 244, thence along Interstate Highway 244 to the junction of Interstate Highway 270, thence along Interstate Highway 270 to the Mississippi River near Burke City, Mo.),* New Hampshire, New Jersey, New York, North Carolina, Ohio (except that portion of Ohio on and north of a line beginning at the Indiana-Ohio State line at Greenville, Ohio, thence along Ohio Highway 571 to the junction of U.S. Highway 36 at Greenville, Ohio, thence along U.S. Highway 36 to the junction of Ohio Highway 3 at Mt. Vernon, Ohio, thence along Ohio Highway 3 to the junction of Ohio Highway 585 at Wooster, Ohio, thence along Ohio Highway 585 to the junction of Ohio Highway 261 at Akron, Ohio, thence along Ohio Highway 261 to junction Ohio Highway 59, thence along Ohio Highway 59 to the junction of Ohio Highway 5 at Ravenna, Ohio, thence along Ohio Highway 5 to the Ohio-Pennsylvania State line near Kinsman, Ohio), Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin (except that portion northwest of a line beginning at the Illinois-Wisconsin State line near Beloit, Wis., thence along U.S. Highway 51 to the junction of U.S. Highway 151 near Madison, Wis., thence along U.S. Highway 151 to the junction of U.S. Highway 41 near Fond du Lac, Wis., thence along U.S. Highway 41 to Green Bay, Wis.), and the District of Columbia. Restricted against the transportation of fuel tanks to Arkansas, Indiana, Kentucky, Louisiana, Missouri, and Tennessee. The purpose of this filing is to eliminate the gateways of Mattoon (Coles County, Ill.); and Coles County, Ill., and St. Clair, Mo.

No. MC 52657 (Sub-No. E11), filed June 4, 1974. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th St., Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truck bodies*,

from points in Nevada and that part of California on and north of a line beginning at the Nevada-California State line on U.S. Highway 6 near Benton Station, Calif., thence along U.S. Highway 6 to its junction with California Highway 120 at Benton Station, Calif., thence west on California Highway 120 to its junction with Interstate Highway 205 near Manteca, Calif., thence along Interstate Highway 205 to its junction with Interstate Highway 580 at Mountain House, Calif., thence along Interstate Highway 580 to its junction with California Highway 92 at Castro Valley, Calif., thence along California Highway 92 to the Pacific Ocean near Half Moon Bay, Calif., to points in Alabama, that part of Arkansas on and east of a line beginning at the Arkansas-Tennessee State line near West Memphis, Ark., thence along Interstate Highway 55 to the junction of U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 62 and 67 at Hoxie, Ark., thence along U.S. Highway 62 and 67 to the Arkansas-Missouri State line near Corning, Ark., Connecticut, Delaware, Florida, Georgia, Louisiana (except that part west of a line beginning at Houma, La., thence along U.S. Highway 90 to the junction of Lake Pontchartrain Causeway near New Orleans, thence along Lake Pontchartrain Causeway to the junction of Louisiana Highway 25, thence along Louisiana Highway 25 to the Louisiana-Mississippi State line near Franklinton, La.), Maine, Maryland, Massachusetts, Michigan (Lower Peninsula), Mississippi (except that part west of a line beginning at the Louisiana-Mississippi State line near Tylertown, Miss., extending along Mississippi Highway 27 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Mississippi-Tennessee State line near Hermandy, Miss.), that part of Missouri on and west of a line beginning at the Arkansas-Missouri State line near Naylor, Ark., extending along U.S. Highway 67 to the junction of Interstate Highway 55, thence along Interstate Highway 55 to junction Interstate Highway 244, thence along Interstate Highway 244 to the junction of Interstate Highway 70, thence along Interstate Highway 70 to junction Missouri Highway 79, thence along Missouri Highway 79 to Louisiana, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, that part of Wisconsin east of a line beginning at the Illinois-Wisconsin State line near Beloit, Wis., extending along Interstate Highway 90 to the junction of Wisconsin Highway 26, thence along Wisconsin Highway 26 to junction U.S. Highway 151, thence along U.S. Highway 151 to the junction of U.S. Highway 41 near Fond du Lac, Wis., thence along U.S. Highway 41 to Marinette, Wis., and the District of Columbia, restricted against the transportation of fuel tanks to Arkansas, Louisiana, Missouri, and Tennessee; and

(2) *Truck bodies*, from points in Nevada and that part of California on

and north of a line beginning at the Nevada-California State line on U.S. Highway 6 near Benton Station, Calif., extending along U.S. Highway 6 to its junction with California Highway 120 at Benton Station, Calif., thence along California Highway 120 to its junction with Interstate Highway 205 near Manteca, Calif., thence along Interstate Highway 205 to its junction with Interstate Highway 580 at Mountain House, Calif., thence along Interstate Highway 580 to its junction with California Highway 92 at Castro Valley, Calif., thence along California Highway 92 to the Pacific Ocean near Half Moon Bay, Calif., to points in Illinois (except that portion of Illinois north of a line beginning at the Illinois-Indiana State line near Marshall, Ill., extending along Interstate Highway 70 to the Mississippi River near Granite City, Ill.), Indiana (except that portion north of a line beginning at the Ohio-Indiana State line near Winchester, Ind., extending along Indiana Highway 32 to the junction of Indiana Highway 67 at Muncie, Ind., thence along Indiana Highway 67 to the junction of Interstate Highway 69 near Anderson, Ind., thence along Interstate Highway 69 to the junction of U.S. Highway 40 at Indianapolis, thence along U.S. Highway 40 to the Illinois-Indiana State line near Terre Haute, Ind.), Kentucky and Ohio (except that portion northwest of a line beginning at Cleveland, Ohio, near Lake Erie, extending along U.S. Highway 6 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of Ohio Highway 113, thence along Ohio Highway 113 to the junction of Ohio Highway 18, thence along Ohio Highway 18 to the junction of Ohio Highway 53, thence along Ohio Highway 53 to the junction of U.S. Highway 30N, thence along U.S. Highway 30N to the junction of Interstate Highway 75, thence along Interstate Highway 75 to junction Ohio Highway 47 near Sidney, Ohio, thence along Ohio Highway 47 to the Ohio-Indiana State line near Hill Grove, Ohio), restricted against the transportation of fuel tanks to points in Illinois, Indiana, and Kentucky. The purpose of this filing is to eliminate the gateways of (1) Mattoon, Coles County, Ill., and (2) Coles County, Ill., and St. Claire, Mo.

No. MC 95540 (Sub-No. E553), filed May 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE, Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Red Creek, Waterloo, Rushville, Penn Yan, Egypt, Fairport, Lyons, Newark, and Syracuse, N.Y., to points in North Carolina southeast of a line beginning at the intersection of Interstate Highway 77 and the North Carolina-South Carolina State line and extending along to Interstate Highway 85 to junction U.S. Highway 29/70, thence along U.S. Highway 29/70 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction North Carolina

Highway 49, thence along North Carolina Highway 49 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Del Marva Peninsula, Va.

No. MC 88368 (Sub-No. E52) filed August 9, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandville, Mo. 64030. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) from points in Alabama to points in that part of Florida in, east and south of Hamilton, Suwanee, Lafayette and Dixie Counties; (2) from points located in and south of Pickens, Tuscaloosa, Jefferson, Saint Clair, Calhoun and Cleburne Counties, Ala., to points in that part of Indiana in and north of Vigo, Parke, Montgomery, Tippecanoe, Carroll, Cass, Miami, Grant, Delaware and Wayne Counties; (3) from points in and south of Choctaw, Marengo, Dallas, Montgomery, Macon and Lee Counties, Ala., to points in that part of Indiana located in and north of Vigo, Clay, Putnam, Morgan, Johnson, Shelby, Rush, Fayette, and Wayne Counties. The purpose of this filing is to eliminate the gateways of Valdosta, Ga., in (1) above, Molus, Ky., Corinth, Miss., and Birdspoint, Mo., in (2) above, and Molus, Ky., Florence, Ala., Corinth, Miss., and Birdspoint, Mo., in (3) above.

No. MC 88368 (Sub-No. E76), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission; (1) from points on and north of a line beginning at the Michigan State line at Detroit, Mich., and extending along Interstate Highway 96 to Muskegon, Mich., to points in Arkansas within an area bounded by a line beginning at the Arkansas-Texas State line near Texarkana, Ark., and extending along Interstate Highway 30 to Little Rock, Ark., thence along U.S. Highway 65 to the Arkansas-Louisiana State line, thence along the Arkansas-Louisiana State line to the Arkansas-Texas State line, thence along the Arkansas-Texas State line to junction Interstate Highway 30, the point of beginning, including points on the indication portions of the highways specified; (2) from points in Chippewa and Mackinac Counties, Mich., and the Lower Peninsula of Michigan to points in Colorado; (3) from points in the Lower Peninsula of Michigan in, north, and east of Ottawa, Kent, Ionia, Clinton, Ingham, Jackson, and Hillsdale Counties, Mich., to points in, south, and west of Park, Hot Springs, Fremont, Carbon, Albany, and Laramie Counties, Wyo.; (4) from points in and east of a line beginning at Marquette, Mich., and extend-

ing along U.S. Highway 41 to Escanaba, Mich., to Harlan, Iowa, and points within 15 miles thereof; (5) from points in, east, and south of Marquette and Dickinson Counties, Mich., to points in and south of Garfield, Eagle, Summit, Clear Creek, Jefferson, Denver, Adams, Arapahoe, Lincoln, and Kit Carson Counties, Colo.; (6) from points in Michigan to points in, south, and west of Lamar, Delta, Hopkins, Wood, Smith, Cherokee, Nacogdoches, and Shelby Counties, Tex. The purpose of this filing is to eliminate the gateways of: in (1), Farmer City, Ill., Birds Point, Mo., Corinth, Miss., and Tusculumbia, Ala.; in (2), Clinton, Ill., Newton, Kans., and Bloomington, Ill.; in (3), Bloomington, Ill., Newton, Kans., and Sidney, Nebr.; in (4), Woodford, Ill., El Paso, Ill., Bloomington, Ill., and Chenoa, Ill.; in (5), Eureka, Ill., Newton, Kans., and Bloomington, Ill.; and (6), Bloomington, Ill., Arkansas City, Kans., and Pekin, Ill.

No. MC 88368 (Sub-No. E77), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission (1) from points in Maine to points in and south of Lee, Collier, and Dade Counties, Fla.; (2) from points in and north of Knox, Kennebec, Franklin, and Oxford Counties, Maine, to points in, south, and west of Jefferson, Taylor, Dixie, Levy, Citrus, Sumter, Lake, Seminole, and Orange Counties, Fla.; (3) from points in Maine to points in De Kalb, Henry, Clayton, Fayette, Douglas, Cobb, Spaulding, Gwinnett, Cherokee, Floyd, Forsyth, Hale, Barrow, Clarke, and Oconee Counties, Ga.; (4) from points in Maine to points in Montana; (5) from points in Maine to points in and west of Hamilton, Marion, Coffee, Bedford, Maury, Hickman, Humphreys, Benton, and Henry Counties, Tenn.; (6) from points in Maine on and north of a line beginning at the Maine-New Hampshire State line near Gilead, Maine, and extending along U.S. Highway 2 to Bangor, Maine; thence along Maine Highway 9 to the United States-Canada International Boundary line to points in Tennessee in and south of west of Hamilton, Marion, Grundy, Coffee, Rutherford, Davidson, Cheatham, Dickson, Houston, Benton, and Henry Counties. The purpose of this filing is to eliminate the gateways of: in (1) Lawrence, Mass., Philadelphia, Pa., Steubenville, Ohio, Lynch, Ky., and Folkston, Ga.; in (2), Lawrence, Mass., Philadelphia, Pa., Steubenville, Ohio, Lynch, Ky., Folkston, Ga., Bledsoe, Ky., and Albany, Ga.; in (3) Lawrence, Mass., Philadelphia, Pa., Steubenville, Ohio, and Bledsoe, Ky.; in (4), Boston, Mass., Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sidney, Nebr., Casper, Wyo., Lawrence, Mass., and New Castle, Wyo.; and in (5) Lawrence, Mass., Phil-

adelphia, Pa., Steubenville, Ohio, Bledsoe, Ky., and Valley Head, Ala.

No. MC 88368 (Sub-No. E78), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) from points in South Dakota to points in and east of Wayne, Lewis, Maury, Williamson, Davidson, and Sumner Counties in Tennessee; (2) from points on and west of a line beginning at the South Dakota-Nebraska State line near Olansville, S. Dak., and continuing along U.S. Highway 83 to the South Dakota-North Dakota State line in South Dakota to points on and south of a line beginning at the Arkansas-Oklahoma State line near Fort Smith, Ark., and continuing along Interstate Highway 40 to Brinkley, Ark., thence along U.S. Highway 49 to the Arkansas-Mississippi State line in Arkansas; (3) from points in and east of Gregory, Brule, Lyman, Stanley, Dewey, and Corson Counties in South Dakota to points in and east of Nemaha, Pottawatomie, Riley, Geary, Morris, Marion, Harvey, Sedgwick, and Sumner Counties in Kansas; (4) from points in, north, and east of Pennington, Jackson, Jones, Lyman, and Gregory Counties in South Dakota to points in, and east of, Cotton, Comanche, Grady, Oklahoma, Logan, Noble, and Kay Counties, in Oklahoma; (5) from points in and east of Gregory, Lyman, Hughes, Sully, Potter, Walworth, and Campbell Counties in South Dakota to points on and east of U.S. Highway 277 in Texas; (6) from points in and west of Gregory, Lyman, Hughes, Sully, Potter, Walworth, and Campbell Counties in South Dakota to points in and south of Aiken, Lexington, Richland, Sumter, Florence, Marion, and Horry Counties in South Carolina. The purpose of this filing is to eliminate the gateways of: in (1), Harlan, Iowa, Jefferson City, Mo., Corinth, Miss., and Florence, Ala.; in (2), Yorkshshire, Iowa, Newton, Kans., and El Reno, Okla.; in (3) Yorkshshire, Iowa; in (4) Yorkshshire, Iowa, and Arkansas City, Kans.; in (5) Harlan, Iowa, Arkansas City, Kans., and Yorkshshire, Iowa; and in (6) Yorkshshire, Iowa, Jefferson City, Mo., Corinth, Miss., Florence, Ala., and Valdosta, Ga.

No. MC 88368 (Sub-No. E79), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Colorado east of the continental divide; (2) from points in, north, and west of Klamath,

Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Kansas; (3) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Kentucky; (4) from points in and west of Harney, Grant, Union, and Wallowa Counties, Oreg., to points in Louisiana; (5) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Maryland in, east, and south of Baltimore, Howard, and Prince Georges Counties; (6) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Michigan in the Lower Peninsula of Michigan; (7) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in New York in and east of Broome, Chenango, Otsego, Montgomery, Fulton, Saratoga, Warren, Essex, and Clinton, Counties; (8) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Oklahoma in and east of Tillman, Comanche, Caddo, Canadian, Kingfisher, Garfield, and Grant Counties; (9) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in South Carolina; (10) from points in, north, and west of Coos, Douglas, Lane, Linn, Jefferson, Wheeler, Morrow, Umatilla, and Wallowa Counties, Oreg., to points in Texas on and east of U.S. Highway 83; (11) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Wyoming;

(12) From points in and west of Lane, Douglas, and Jackson Counties and in and north of Lincoln, Benton, Linn, Jefferson, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Iowa in, east, and south of Decatur, Clarke, Warren, Polk, Jasper, Poweshiek, Iowa, Johnson, Cedar, and Scott Counties, and Harlan, Iowa, and 15 miles thereof; (13) from points in and west of Jackson, Douglas, Lane, Linn, Marion, Clackamas, and Multnomah Counties, Oreg., to points in Iowa; (14) from points in and west of Hood River, Clackamas, Marion, Lane, Douglas, and Jackson Counties, and points in Wasco, Sherman, Gilliam, and Morrow Counties, Oreg., to points in Nebraska on and east of U.S. Highway 81, in and south of Polk, Butler, Saunders, and Douglas Counties; (15) from points in and west of Morrow, Gilliam, Sherman, Wasco, Marion, Linn, Lane, Douglas, and Coos Counties, Oreg., to points in Idaho in and south of Adams, Valley, and Lemhi Counties west of U.S. Highway 93; (16) from points in, north, and west of Klamath, Deschutes, Crook, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Texas within 200 miles of Detroit, Tex., and that

territory on and east of a line beginning at Waco, Tex., and extending in a southerly direction along Interstate Highway 35 to Temple, Tex., thence along U.S. Highway 180 to Cameron, Tex., thence along U.S. Highway 77 to Victoria, Tex., thence along U.S. Highway 87 to its termination at Port Lavaca, Tex.; (17) from points in, north, and west of Coos, Douglas, Lane, Deschutes, Jefferson, Wheeler, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., to points in Utah; and (18) from points in and west of Hood River, Clackamas, Marion, Linn, Lane, Douglas, and Jackson Counties, Oreg., to points in Wisconsin in, south, and east of Grant, Iowa, Madison, Columbia, Fond du Lac, and Sheboygan Counties. The purpose of this filing is to eliminate the gateways of: in (1), Mary Hill, Wash., Dalesport, Wash., Mary Hill Wash., and Walla Walla, Wash.; in (2), Mary Hill, Wash., Sterling, Colo., and Dalesport, Wash.; in (3), Mary Hill, Wash., Sterling, Wash.; in (4), Mary Hill, Wash., Sterling, Colo., Newton, Kans., Clinton, Ill., Laramie, Wyo., Sidney, Nebr., Shelby, Iowa, Bloomington, Ill., Indianapolis, Ind., and Dalesport, Wash.; in (5), Walla Walla, Wash., Sterling, Colo., Arkansas City, Kans., Jacksonville, Tex., Mary Hill, Wash., Dalesport, Wash., Newton, Kans., and Ardmore, Okla.; in (6), Mary Hill, Wash., Sterling, Colo., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., and Dalesport, Wash.; (7), Mary Hill, Wash., Sterling, Colo., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., Walla Walla, Wash., and Dalesport, Wash.; and in (8), Mary Hill, Wash., Ft. Collins, Colo., Arkansas City, Kans., Newton, Kans., and Dalesport, Wash.

No. MC 88368 (Sub-No. E80), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission; (1) from points in and west of Otero, Sierra, Socorro, Torrance, Santa Fe, Rio Arriba, and Taos Counties in New Mexico to points in and east of Love, Carter, Johnston, Coal, Pittsburg, McIntosh, Okmulgee, Cree, Payne, Noble, and Kay Counties in Oklahoma; (2) from points in New Mexico to points in, east, and south of Leon and Wakulla Counties, Fla.; (3) from points in New Mexico to points in, east, and south of Broome, Chenango, Madison, Oneida, Herkimer, Hamilton, and Franklin Counties, N.Y.; (4) from points in and south of McKinley, Sandoval, Santa Fe, Torrance, Lincoln, DeBaca, Roosevelt, and Curry Counties in New Mexico to points in and east of Republic, Cloud, Ottawa, Saline, McPherson, Harvey, Sedgwick, and Sumner Counties in Kansas; (5) from points in New Mexico to

points in, south, and east of Baltimore, Howard, and Prince Georges Counties in Maryland; (6) from points in, north, and west of Otero, Chaves, and Roosevelt Counties in New Mexico to points in, south, and east of Quachita, Caldwell, Winn, Natchitoches, Morehouse, and Sabine Parishes, in Louisiana. The purpose of this filing is to eliminate the gateways of: in (1) El Reno, Okla., Arkansas City, Kans., Sherman, Tex., and Gainesville, Tex.; in (2) El Reno, Okla., Ft. Smith, Ark., Florence, Ala., Albany, Ga., Jacksonville, Tex., Shreveport, La., Selma, Ala., and Valdosta, Ga.; in (3) El Reno, Okla., Arkansas City, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; in (4) El Reno, Okla.; in (5) El Reno, Okla., Arkansas City, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; and in (6) El Reno, Okla., Jacksonville, Tex., and Troup, Tex.

No. MC 95540 (Sub-No. E313), filed May 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from all points in Texas on and south of a line beginning at the western boundary on Interstate Highway 40 to junction U.S. Highway 66, thence along U.S. Highway 66 to the eastern boundary, to all points in Ohio on and east of a line beginning at the northern boundary on Interstate Highway 75 to the southern boundary. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E595), filed May 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from all points in California to all points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 62 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Dothan, Ala.

No. MC 95540 (Sub-No. E617), filed May 8, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittsburgh, Pa., to all points in Arizona. The purpose of this filing is to eliminate

the gateways of Crozet, Va., and Nashville, Tenn.

No. MC 95540 (Sub-No. E673), filed May 13, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Melton, Pa., to all points in New Mexico. The purpose of this filing is to eliminate the gateways of any point in Tennessee.

No. MC 102817 (Sub-No. E1) (Correction), filed May 12, 1974, published in the FEDERAL REGISTER April 10, 1975. Applicant: PERKINS FURNITURE TRANSPORT, INC., 5034 Lafayette Rd., Indianapolis, Ind. 46254. Applicant's representative: Robert W. Loser, 320 N. Meridian St., Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from points in Florida to points in Illinois on and north of a line beginning at the Ohio River and extending along Illinois Highway 13 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3, thence along Illinois Highway 3 to the Mississippi River (Indiana, except Marion County)*; (2) *new furniture*, from points in Florida to points in Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin (Evansville, Huntington, Richmond, Batesville, and Indiana)*; (3) *new furniture*, from points in Florida on and east of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 27 to junction Florida Highway 351, thence along Florida Highway 351 to termination at Horseshoe Point, to points in Kansas (Evansville, Ind., Huntington, Ind., and Indiana)*; (4) *new furniture*, from points in Florida to points in Kentucky, that are both on and north of U.S. Highway 62 and on and east of U.S. Highway 41 (Evansville, Ind., and in Florida to points in West Virginia (Indiana)*; (5) *new furniture*, from points in Florida to points in West Virginia north of U.S. Highway 40 (Indiana)*; (6) *new furniture*, from points in Florida on and south of Florida Highway 60 to points in Pennsylvania on and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line (Indiana, except Marion County, Ind.)*;

(7) *new furniture*, from points in Florida on and south of Florida Highway 60 to points in New York on and west of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 39 to junction Alternate U.S. Highway 20, thence along Alternate

U.S. Highway 20 to New York Highway 5, thence along New York Highway 5 to junction New York Highway 21, thence along New York Highway 21 to Lake Ontario (points in Indiana, except Marion County, Delphi, Tell City and Milan, Ind., and their respective commercial zones)*; (8) *new furniture*, from points in Florida to points in Missouri on and north of U.S. Highway 50 (Evansville, Ind., and Indiana)*; (9) *new furniture*, crated or uncrated, and *store and office fixtures*, crated, (a) from points in Illinois that are both on and north of Interstate Highway 74 and Illinois Highway 47 to points in Arkansas (Indiana, except Delphi and Milan)*; (b) from points in Illinois to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Virginia (Indiana, except Delphi and Milan)*; (10) *store and office fixtures*, uncrated, from points in Illinois on and north of U.S. Highway 50 and on and south of Illinois Highway 17 to points in Delaware, Maryland, New Jersey, New York, Virginia and the District of Columbia (Indianapolis, Ind.)*; (11) *new furniture and store and office fixtures*, crated, from points in Illinois to points in the Lower Peninsula of Michigan, Ohio, Pennsylvania, West Virginia, District of Columbia, points in Kentucky on and east of U.S. Highway 41, points in Tennessee, on and east of Tennessee Highway 13 (Indiana, except Delphi, Tell City, and Milan)*; (12) *new furniture*, crated or uncrated, and *store and office fixtures*, crated, (a) from points in Illinois on and north of a line beginning at the Ohio River and extending along Illinois Highway 13 to junction Illinois Highway 149, thence along Illinois Highway

way 149 to junction Illinois Highway 3, thence along Illinois Highway 3 to Chester, Ill., to points in Georgia and Florida (points in Indiana except Milan and Delphi)*; (b) from points in Illinois on and east of a line beginning at the Ohio River and extending along Illinois Highway 130 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Wisconsin-Illinois State line, to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin (points in Indiana except Milan and Delphi)*;

(13) *New furniture*, uncrated and *new furniture* in containers when moving with uncrated shipments of the same commodities, from points in Illinois between Illinois Highway 17 on the north and a line beginning at the Kentucky-Illinois State line and extending along Illinois Highway 13 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3 at Chester, on the south, to points in Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, District of Columbia, points in Kentucky east of U.S. Highway 41 and points in Tennessee east of U.S. Highway 31 (Peru, Huntington, Munster, Batesville, Jasper, Richmond, Warsaw, Tell City, Evansville, and Delphi, Ind.)*;

(14) *New furniture*, uncrated, and *new furniture* in containers, when shipped with uncrated furniture, from all points in Indiana to points in Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New

York, North Dakota, South Dakota, Virginia, Wisconsin, and the District of Columbia. Exception: No shipments will be made on traffic from De Kalb, LaGrange, and Steuben Counties, Ind., to points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, or Wyoming Counties, N.Y. (Batesville, Delphi, Evansville, Huntington, Jasper, Munster, Peru, Richmond, Tell City, and Warsaw, Ind.)*; and (15) *new furniture, store and office fixtures*, crated, (a) from points in Kentucky on and east of U.S. Highway 41 to points in Illinois on and north of U.S. Highway 50, points in Missouri on and north of U.S. Highway 50, points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, points in Michigan on and west of U.S. Highway 23, and to points in the Upper Peninsula of Michigan (Evansville, Huntington, Richmond, Batesville, and Indiana)*; and (b) from points in Kentucky on and west of junction Interstate Highway 75 to points in Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, District of Columbia, and points in West Virginia on and north of U.S. Highway 40 (Tell City, Batesville, Ind., and Indiana)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to clarify destination points and to correct elimination points.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-11995 Filed 5-6-75; 8:45 am]

federal register

WEDNESDAY, MAY 7, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 89

PART II



DEPARTMENT OF TRANSPORTATION

Coast Guard



DEEPWATER PORTS

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[33 CFR 148, 149, 150]

[CGD 75-002]

DEEPWATER PORTS

Notice of Proposed Rule Making

This notice proposes rules for the licensing, design, construction, equipment, and operation of deepwater ports beyond the territorial sea of the United States under the provisions of the Deepwater Port Act of 1974 (the Act). The purposes of the Act are to regulate commerce, promote efficiency in transportation, and protect the environment by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States.

Written comments. Interested persons are invited to participate in this rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (G-CMC/82), Room 8234, U.S. Coast Guard, U.S. Department of Transportation, 400 Seventh St. SW., Washington, D.C. 20590. Written comments should include the docket number of this notice, the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. A separate page for each section commented upon and two or more copies are encouraged. Suggested new or different regulations will be welcome.

Copies of all written comments will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh St., SW., Washington, D.C.

Public hearing. A public hearing on this proposal will be held on June 6, 1975, 9:30 a.m., in Room 2232 at the Department of Transportation, Nassif Building, 400 Seventh St. SW., Washington, D.C. to receive written or oral comments from interested persons. The hearing will be conducted by a representative of the Department of Transportation who may apportion the time for presentation. Each person desiring to speak at this hearing is requested to notify the Executive Secretary, Marine Safety Council, of the time needed for his presentation and is encouraged to submit a written copy or summary after the hearing of his oral presentation.

Closing date for comments. All relevant communications received on or before June 23, 1975 will be fully considered before final action is taken on this proposal. This proposal may be changed in light of the comments received; however, acknowledgement of individual comments will not be made.

Availability of comments. Copies of comments received and a tape recording of the public hearing will be available for examination in Room 8234. Copies of comments will be furnished interested persons upon request to the Commandant (G-CMC/82) and payment of the fees prescribed in 49 CFR 7.95.

Draft guidelines. A notice was published in the FEDERAL REGISTER on January 15, 1975 (40 FR 2740) to the effect that drafts of the "Guide to Preparation of Environmental Analyses For Deepwater Ports", "Recommended Procedure for Developing Deepwater Ports Design Criteria", the "Guidelines for Preparation of a Deepwater Port Operations Manual", and "Glossary For Deepwater Ports Environmental Analyses, Design, and Operations Manual Guides" are available for public inspection and comment at Commandant (G-WDWP/61), U.S. Coast Guard, Room 6125, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Draft environmental impact statement. A draft environmental impact statement has been prepared for the rules in this notice that are proposed under section 10(a) of the Act. This draft statement was forwarded to the Council on Environmental Quality on January 3, 1975 (40 FR 2468). Copies of the draft will be available to the public prior to the public hearing on this notice. Individuals may obtain a copy of that draft from the Commandant (G-WDWP/61), U.S. Coast Guard, Washington, D.C. 20590.

Consultation with other federal agencies. In accordance with the Act, the Department of Transportation is consulting with other Federal departments and agencies concerning the promulgation of these regulations.

Background of the proposal. The U.S. does not now have ports deep enough to accommodate the supertankers that are carrying the bulk of the world's oil. Our 35 to 50 foot deep harbors and channels, suitable for post World-War II cargo ships of 40,000 to 70,000 dead weight tons, are largely inaccessible to today's 200,000 to 400,000 dead weight ton VLCC's (Very Large Crude Carriers) which require water depths of 90 feet or more. Our deepest ports, which are located on the West Coast, are now capable of berthing only 100,000 dead weight ton ships.

This inability to handle VLCC's currently precludes our use of approximately 60 percent of the world's tanker fleet capacity. As a result, supertankers must transfer U.S. bound petroleum into smaller ships for delivery into our harbors or the oil must be transhipped from foreign ports in conventional size tankers. Currently, the U.S. is the only major oil importing nation which cannot accommodate supertankers. Both France and the Netherlands have undertaken dredging and enlargement programs which give them approximately a 10 year advantage over us in the handling of these giant ships. Supertanker ports have also been built in Japan, Ireland, and Italy, among other countries.

This situation may now change, however, as on January 3, 1975, the President signed into law the Deepwater Port Act of 1974, an act which will allow the building of the first port facilities in the United States capable of handling VLCC's.

A "deepwater port" is an oil transfer facility located offshore and beyond the territorial waters of the United States. It is situated in water of sufficient depth to accommodate most of the world's fleet of supertankers.

One type of facility under consideration by potential licensees is the single point mooring buoy system. This system consists of platforms that house pumping stations, control rooms, and crew accommodations. Surrounding the platforms would be Single Port Mooring buoys (SPM's). Underwater pipelines would connect the buoys to the pumping platforms which in turn would be linked to onshore tank farms by one or more steel pipes buried in the seabed.

In the operation of such a facility, a VLCC would moor to one of the buoys, hook up to a floating oil transfer hose, and then either pump its cargo of oil through an underwater pipeline and pumping platform to an onshore facility or receive oil pumped through the oil transfer system from the shore facility. The cargo hoses are attached to the buoys by swivel connections which allow the tanker to "weathervane" 360 degrees to face into the wind, waves, and current while continuing to offload.

To assure that the construction and operation of these deepwater ports will be in the national interest, regulations are proposed for both the construction and operational phases. These proposed regulations provide for the protection of the marine and coastal environment by attempting to prevent or minimize any adverse impact which may occur as a consequence of the development of these ports. These regulations also seek to provide sufficient information for the Secretary of Transportation to make the determinations required by the Act as a precondition to the issuance of a deepwater port license. Some of the major areas covered by the regulations include: personal and financial data required of a prospective deepwater port operator; environmental data to be provided with application for a license to operate a deepwater port; construction standards to be met; operational constraints to be followed; and proposed oil spill prevention measures and operator clean-up capabilities.

Additional regulations will be promulgated in the future concerning, among other things, additional procedures in Part 148 for the amendment, renewal and transfer of licenses, regulations pertaining to site evaluation and preconstruction activities, operating procedures and special equipment and manning requirements for tankers using the port, and the establishment of the liability fund required by section 18 of the Act. Future regulations will be added to Subpart C of Part 150 to prescribe limitations on activities in the safety zone at each deepwater port. The size, shape, and activities to be authorized for each safety zone will be determined on a case-by-case basis pursuant to the provisions of section 10(d) of the Act.

The proposed regulations are generally self-explanatory. However, a few

items have been singled out that were thought to deserve some remarks.

Applications. Section 148.109 prescribes the information required to be submitted in an application for a deepwater port license and for all other Federal authorizations required to construct and operate a deepwater port and associated onshore storage facilities and pipelines connecting the facilities to the port, existing distribution pipelines, and refineries. The application information pertaining to Federal authorizations other than the deepwater port license is required in order to comply with section 5(e)(2) of the Act which provides in part that "[a]n application filed with the Secretary shall constitute an application for all Federal authorizations required for ownership, construction, and operation of a deepwater port. . . ." The information pertaining to other Federal authorizations will be sent to the appropriate Federal departments or agencies for processing, adjudication, and issuance of licenses within the time frames established in section 5 of the Act.

Section 148.109(h) requires an applicant to identify any areas of the seabed that have been leased for mineral exploration under the Submerged Lands Act and the Outer Continental Shelf Lands Act and that, if developed, would interfere with any proposed deepwater port. If a potential conflict exists, the applicant must conclude an agreement with the lessor in which the lessor agrees, if the applicant is granted a license, not to exercise his rights under the lease in any way which will interfere with the port.

Section 148.109(k) requires submission of certain soil data relating to the ocean bottom and sub-bottom throughout the marine site and along the pipeline path to shore. This information is needed to determine whether the soil of the bottom and sub-bottom can hold the anticipated design load of any structure and to determine whether forces associated with storm conditions would have any effect on the seabed. This analysis is necessary in view of the fact that there are cases where offshore platforms have failed due to a large scale shift of the seabed resulting from a storm.

Section 148.109(l)(1) requires the submission of data concerning the maximum size of the tankers to be accommodated at each deepwater port. It is anticipated that, as a result of varying depths within the safety zone of the port, the tanker size to be accommodated at each SPM will vary. Subparagraph (2) requires an explanation of the method used to determine the size of the tankers that can be accommodated. Section 150.339(f) in Part 150 establishes a minimum net underkeel clearance of 5 feet. Considering the water depth of any particular location, it is necessary to calculate the minimum gross underkeel clearance which must be allowed for that location so that the net underkeel clearance will never be less than 5 feet. Subparagraph (3) requires a discussion of wind, wave, and current conditions that will necessi-

tate cessation of certain port operations. This will depend in large part on the maximum wind, wave, and current conditions for which each component of the port is designed.

Sections 148.109(m)-(p) require the submission of technical data concerning various components of the proposed deepwater port and related shore development. The Coast Guard does not plan to issue extensive regulations prescribing methods used to design the deepwater port components. However, these regulations do require the applicant to submit information concerning design criteria, standards, codes, and engineering practices to be used in designing each component of the port. With regard to design criteria, they are to be developed based on the 100 year storm, in accordance with Part 149. Only preliminary design drawings of the components are required as part of the application. If a license is issued, the applicant will be required to submit complete, detailed design drawings before commencing construction.

Section 148.109(s) requires the submission of a draft Operations Manual for the proposed deepwater port. Guidance for preparing the draft manual is found in the "Guidelines for Preparation of a Deepwater Port Operations Manual." It is anticipated that the Coast Guard will work with the licensee of a deepwater port in finalizing the draft to meet the requirements of the deepwater port regulations, the "Guidelines for Preparation of a Deepwater Port Operations Manual" (see § 150.105 of Part 150), and any license conditions issued under 4(e) of the Act.

Section 148.109(t) in part establishes a requirement for an applicant to submit, with his application, an environmental analysis for the proposed deepwater port. The purpose of this analysis is to provide that data necessary for the Coast Guard to prepare the environmental impact statement required by section 5(f) of the Act for the proposed deepwater port. Since the Act provides that only one impact statement be prepared for each license granted, and in view of the time constraints established by the Act, it is imperative that an applicant submit comprehensive, complete, and organized data in his analysis. To this end, the Coast Guard has prepared the Guidelines for the Preparation of Environmental Analyses for Deepwater Ports that are available upon request. Section 149.109(t) further requires that an environmental analysis submitted in an application be prepared in accordance with the guidelines.

Sections 148.109(v)-(x) list requirements for submitting information concerning the proposed operation of telecommunications equipment and the discharge of pollutants and other materials at the port and adjacent onshore facilities. Section 148.109(y) lists requirements for submitting information to be used in the antitrust review of an application. These sections have been requested by the Federal Communications Commission, Environmental Protection Agency,

Department of Army (Corps of Engineers), and Federal Trade Commission for inclusion in this notice of proposed rule making. Procedures for adjudicating and processing this information for completeness within the time frames established in section 5 of the Act are being developed and coordinated with these agencies. The procedures will include provisions that these agencies issue the permits required to operate telecommunications equipment and to discharge pollutants and other materials, and provisions that the permits are normally issued concurrently with the deepwater port license. Rules explaining these procedures, and rules referencing the existing adjudication procedures in the Code of Federal Regulations for these agencies, will be incorporated in Subpart C of Part 148.

Application proceeding. Because section 5 of the Act requires all hearings in a proceeding to be completed within 240 days after the first application is filed and requires a final decision to be made within 90 days after the last hearing, the time limits prescribed for formal hearings in Subpart C of Part 148 are short. However, the administrative law judge in a formal hearing has the authority under § 148.257(j) to extend a time limit if the extension is consistent with the time limits prescribed in section 5(g) of the Act.

Section 148.217(a)(3) provides that a State's request for designation as an adjacent coastal state under section 9(a)(2) of the Act must state why the designation should be made and may provide any documentation in support of the statement including documentation concerning risk of damage to the coastal environment of the State (see section 3(b) of the Act) that could occur as a result of an oil spill at the proposed port. Thus, all available documentation concerning the risk of damage to the coastal environment of the State that could result from an oil spill at the port should be submitted with the request to assist the Secretary in acting on the request.

Site Evaluation. Section 148.503 is an interim regulation that will be replaced in the future by more comprehensive regulations pertaining to activities involved in deepwater port site evaluation and preconstruction testing. Section 148.503 requires that persons who intend to conduct site evaluations or preconstruction testing must give advance notice to the Coast Guard of the nature of those activities. The information submitted in the notice will be reviewed in coordination with the National Oceanic and Atmospheric Administration and the Department of Interior; and if the review shows that activities should be regulated under section 5(b) of the Act, regulations for the activity will be issued in a separate rule making proceeding.

Design and Equipment. Part 149 prescribes design standards, construction requirements, and requirements for pollution prevention equipment, safety equipment, and aids to navigation. The requirements for safety equipment include rules for curbs, gutters, drains, and

reservoirs, emergency power equipment, means of escape, personnel landings, fixed fire main systems for water and other fire extinguishing systems, fire detection and alarm systems, and lifesaving equipment. Sections 149.105 and 150.103 require the licensee to ensure that the port meets the design, construction, and equipment requirements in Part 149.

The equipment requirements in Part 149 are based in part on existing analogous Coast Guard regulations, American Bureau of Shipping (ABS) standards, the National Fire Protection Association's (NFPA) "National Fire Code", the American Petroleum Institute (API) "Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms", the American Society of Mechanical Engineers (ASME) "Boiler and Pressure Vessel Code", and American National Standards Institute (ANSI) standards. The ABS is a ship classification society which establishes standards for the design, construction, and survey of ships and other marine structures. ABS classification certifies compliance with these standards which are intended to ensure structural and mechanical fitness for service. NFPA is an international, non-profit, technical, and educational organization organized to promote the science and improve the methods of fire protection and prevention. ANSI standards reflect a national consensus of manufacturers, consumers, scientific, technical, and professional organizations, and government agencies.

Section 149.205(a) requires that design criteria for each deepwater port be based upon a 100 year storm method described in "Recommended Procedures for Developing Deepwater Ports Design Criteria" which is available from the Commandant. The 100 year storm method is used because of experience with its use by engineers in the design of offshore structures in the Gulf of Mexico.

Sections 149.205 (b-d) require that to the extent practicable and consistent with the deepwater port regulations the design of a deepwater port must comply with the API "Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms" (API RP 2A), the ANSI "Practice for Electrical Installations on Shipboard" (ANSI C 110.1-1972), and Sections I, IV, and VIII of "ASME Boiler and Pressure Vessel Code". API RP 2A contains principles and accepted practices of engineering design that have evolved during the development and building of offshore oil platforms. The requirement to use ANSI C 110.1-1972 in designing a platform is proposed because of the application of this recommended practice to marine installations. Compliance with ANSI C 110.1-1972 in designing a platform should effectively eliminate electrical sources of ignition and personal shock on the platform. Compliance with Sections I, IV, and VIII of the ASME Code in designing a platform should minimize as much as possible the potential for a malfunction of a pressurized system or a rupture of the system on the platform,

each of which poses a substantial hazard to personnel.

Section 149.206 requires that, to contain a fire on a platform and to facilitate escape if a fire occurs, walls separating personnel accommodation spaces and service spaces from other spaces on the platform and walls enclosing means of escape and vertical shafts must be constructed of steel and incombustible materials required by 46 CFR 92.07 for bulkheads on cargo vessels.

Section 149.305 requires a remote control shut-off valve method to isolate segments of the oil transfer system in an emergency or for repair.

Section 149.307 requires a blank flange and a butterfly valve on each floating hose string to prevent a discharge from the vessel end of the hose when it is not connected to the vessel manifold.

Section 149.311 requires a malfunction detection system to ensure rapid detection and response to a malfunction or leak in the oil transfer system.

Section 149.317 requires two-way voice communications among certain key personnel for use during oil transfer operation. This rule is designed to permit rapid, coordinated shutdown of the oil transfer operation. It should prevent overflow of tanks at the onshore facility and should provide for immediate reaction to any break in the oil transfer system (OTS) thus minimizing the quantity of oil spilled.

Section 149.411 requires emergency power to operate critical electrical systems to minimize risks to the deepwater port and vessel if there is a power failure.

Sections 149.451-513 contain requirements for firefighting, detection, and alarm equipment for use in containing and extinguishing fires that may occur on a platform.

Section 149.455 requires each fire pump to be in a separate space so that all cannot be destroyed by a fire in one space.

Sections 149.521-525 contain requirements for lifeboats, inflatable liferafts, and launching equipment on a platform for use in an emergency such as fire or collision by a vessel that requires abandonment of the platform. The launching equipment required will allow personnel to depart from the platform without first entering the water. An excess number of lifeboats and inflatable liferafts is required in § 149.521 to provide for the contingency that some lifeboats or liferafts may be damaged or become inaccessible during an emergency that requires abandonment of the platform.

Section 149.524 requires that winches, davits, and mechanical disengaging apparatus for inflatable liferafts be approved by the Coast Guard. Proposed specifications and approval procedures for this equipment are currently being prepared by the Coast Guard and will be issued as a notice of proposed rulemaking in the near future. Section 149.524 will be amended to incorporate these specifications and approval procedures when they are promulgated.

Operations Manual: changes. Section 150.111 requires advance submission to

the Captain of the Port of each change to the Operations Manual of a port. Advance submission is required for the Captain of the Port to review the change for compliance with § 150.105.

Personnel. Minimum qualifications for a terminal supervisor, cargo transfer supervisor, cargo transfer observer, vessel traffic supervisor, mooring master, and assistant mooring master are prescribed to ensure safe operation, and pollution prevention and clean up. The requirements for a mooring master's endorsement in § 150.211(a) will be proposed in a future notice of proposed rulemaking.

Vessel navigation. Because of the size and maneuverability of the supertankers for which these ports are designed, a fundamental element of the proposed regulations is a traffic separation scheme to maintain a safe distance between tankers entering and departing the port. The Coast Guard has determined that a 2 mile visibility is the minimum to ensure the safe approach of a supertanker. The licensee must develop maximum sea conditions criteria and include them in the Operations Manual. A tanker may anchor in the anchorage area until it can moor if conditions prevent mooring to an SPM.

Section 150.339(f) requires a minimum net underkeel clearance of five feet to ensure that a vessel cannot strike bottom. This clearance allows for variance in predicted values of tide, water depth caused by changing bottom conditions, and vessel configuration.

Oil transfer operations. The decision to require an on-scene capability to handle a 10,000 gallon discharge was based upon the difficulty in rapidly transporting bulky equipment to the port in an emergency, as tempered by certain historical studies of discharges occurring at off-loadin SPMs which tend to show that the vast majority of probable discharges would be less than 10,000 gallons.

Section 150.405 imposes minimum standards for test and inspection of oil transfer equipment. In addition to the American Bureau of Shipping test and inspection requirements for the single point mooring buoy oil transfer system (SPM-OTS), this rule imposes a requirement to perform certain tests and inspections of the total OTS at the port. Rules for the design, construction, inspection, testing, operation, and maintenance of submarine pipelines at a deepwater port will be promulgated by the Office of Pipeline Safety, U.S. Department of Transportation.

The test and inspection requirements in §§ 150.407 and 150.409 are based upon Coast Guard experience with and knowledge of the general design and construction features of discharge containment equipment and removal material and equipment. Certain components, such as the fabric and fabric coatings, have been found to deteriorate rapidly, particularly when exposed to sun and salt air. These are considered broad, minimum guidelines; more specific standards cannot be specified until the actual equipment outfit at the port is known.

The purpose of in § 150.419 is to prevent the possibility of the deepwater securing OTS valves while the vessel is still pumping oil, leading to a hazard of a rupture in the OTS.

Section 150.421 is designed to prevent discharge of oil if the SPM is damaged by storm conditions and to minimize the risk of discharge of oil if the SPM or its floating hose string is damaged by any cause (vessel ramming, hose fatigue, etc.).

Section 150.423(b) ensures that those persons handling the actual hose connections are familiar with oil transfer equipment, firefighting procedures, and applicable pollution laws and regulations.

Aids to navigation. Lighted buoys with radar reflectors, in accordance with the lateral system of buoyage prescribed in 33 CFR 62.25 for use with charts in United States waters, are required in §§ 149.771-149.773 to mark the lateral boundaries of traffic lanes at the port.

The number of obstruction lights required on a platform and their arrangement is consistent with the requirements of existing regulations. The obstruction lighting scheme required on floating hose strings attached to an SPM closely parallels the obstruction lighting required on floating pipelines under 33 CFR Part 80.

The intensity requirements for lights in Subpart E of Part 149 will provide for the following visual ranges of the lights:

Required intensities (candela):	Visual Range (nautical miles)
15,000	15
75	5
15	3
1	1

Standards defining acceptable colors of light signals, in terms of chromaticity limits, in § 149.727 are within the limits of the International Commission on Illumination (CIE) recommendations for the specification of colors of light signals in a four color signal (red, yellow, white and green) system published in CIE Publication No. 2 (E-1.3.3), 1971, 2nd Edition.

To assist the mariner in making positive identification of the deepwater port, two special warning devices are required. Section 149.795 requires a radar beacon (RACON) accepted by the FCC for the frequency range 9300-9500 MHz (X-Band). Section 149.797 requires a rotating lighted beacon.

Reports. Copies of reports to American Bureau of Shipping for maintenance of ABS classification are required in § 150.703 to ensure compliance with design and construction requirements specified in Part 149. Section 150.705 requires that discrepancies to navigational aids be reported so that the Coast Guard may issue appropriate Notices to Mariners. Section 150.707 requires that a report of oil throughput be submitted for the purpose of calculating inputs to the Deepwater Port Liability Fund as covered in § 18(f) of the Act.

Section 150.713 requires that the licensee submit to the Captain of the Port a report of sabotage or subversive activity at the port. This report, made by the fastest means possible, should permit the COTP to react quickly to prevent or minimize any threat to life or property, or potential pollution at the port. The required written confirmation will enable the COTP, or other appropriate authority, to investigate the circumstances surrounding the incident, apprehend the perpetrators, and prevent recurrences.

Records. Section 150.751 is a general requirement that all reports, records, test and inspection results, and operating data required by these rules be maintained by the licensee, in a manner suitable for inspection by the Coast Guard, at the port or adjacent onshore facility, for three years unless otherwise specified. "A manner suitable for inspection by the Coast Guard" means any form easily read by an inspector such as duplicate paper copies, or microfilm or microfiche with appropriate optical reader. It rules out media not easily read, such as punched cards, magnetic tape, and microfilm or microfiche without access to an optical reader. Three years is considered a reasonable recordkeeping requirement, and is based upon similar standards in effect for routine government recordkeeping.

Section 150.753 requires that the licensee retain documentation of the designation and qualifications of key operations personnel for the duration of each individual's employment in that capacity at the port. It is necessary to retain documentation for those key individuals for as long as they continue to be employed in the specified capacities, even if beyond the routine three-year requirement.

Section 150.755 requires that the licensee maintain a port inspection record containing operating, test, and inspection data on machinery and equipment for three years, and records of emergency drills for one year. The descriptive data on operating machinery and emergency equipment is required to familiarize official inspectors with the nature and location of all such devices. The record of emergency drills provides the inspector with the only documentation that the drills required by § 150.519 have been conducted. The record of facility tests and inspections provides documentation for the corresponding requirements of Subpart D of Part 150 and § 150.121, thus enabling the official inspector to determine compliance with those requirements.

Section 150.757 requires that the licensee maintain a log of oil throughput at the port. This log is necessary to provide the data from which the quarterly report of oil throughput, covered in § 159.707, is compiled and submitted in compliance with section 18(f)(3) of the Act. The country of origin of the crude oil must be specified in order that cognizant government agencies may monitor patterns of oil imports and pricing.

Inspections. The Coast Guard will inspect deepwater ports to ensure compliance with the Act and regulations. These inspections will cover recordkeeping; op-

eration and maintenance of oil transfer, discharge containment and removal, firefighting, lifesaving, and other emergency systems, equipment and material; and observation of oil transfer operations, terminal controls and procedures, and emergency drills. Results of these inspections, and deficiencies, if any, will be recorded in the Facility Inspection Record.

The regulations proposed in this notice cover the elements that must be considered by applicants in preparing their applications for a license. The Coast Guard proposes regulations at this early date to enable the potential applicants to prepare their applications and to expedite the licensing and construction of deepwater ports.

The Secretary of Transportation has delegated the authority to the Commandant of the Coast Guard to promulgate the regulations in this document under the authority of 33 U.S.C. 1504(a) and 1509(a) and (b) of the Deepwater Port Act of 1974.

In consideration of the foregoing, it is proposed to add a new Subchapter NN to Chapter I of Title 33 of the Code of Federal Regulations to read as follows:

SUBCHAPTER NN—DEEPWATER PORTS

PART 148—GENERAL

Subpart A—General

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GENERAL

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Subpart B—Applications

GENERAL

§ 148.101 Applicability.

This subpart prescribes rules that apply to each application, including competing applications described in § 5(d) (3) of the Act, for the issuance, amendment, renewal, and transfer of a license for the ownership, construction, and operation of a deepwater port.

§ 148.103 Application staff.

The application staff is the Deepwater Ports Project of the Office of Marine Environment and Systems, Commandant (G-WDWP/61), U.S. Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590.

§ 148.105 Preparation.

(a) Any person may confer with the application staff concerning the preparation of an application.

(b) An applicant may incorporate by reference in his application any current information contained in previous applications or reports that he has submitted to the application staff. Reference must be clear and specific.

§ 148.107 Copies; fees.

(a) An application for a license must be submitted with fifty copies to the application staff.

(b) A nonrefundable application fee of \$100,000 must be submitted with each application for issuance of a license.

(c) Additional costs to adjudicate an application, when assessed, must be submitted to the application staff.

(d) Fees and costs assessed under this section must be made payable to the United States Treasury.

§ 148.109 Contents of application for issuance of license.

In addition to meeting the requirements of sections 4(e)(2) and 5(c) of the Act, each application must include the following:

(a) *Proof of citizenship.* (1) If the applicant is an individual, group of individuals, a partnership or an association, an affidavit from each individual stating that he is a citizen of the United States of America.

(2) If the applicant is a corporation, one copy of its charter or certificate and articles of incorporation, certified by the secretary of state or other appropriate authority.

(b) *Proof of authority.* If the applicant is a state, or combination of states, or any political subdivision, agency, or instrumentality of a state, including a wholly owned corporation, copies of the laws authorizing the operations detailed in the application.

(c) *Service of documents.* The name and address of a person upon whom service may be made if a formal hearing is held on the application.

(d) *Verification.* A statement at the end of the application subscribed and sworn to before a notary public that the person who signed the application has

read it and that its contents are true to his best knowledge and belief.

(e) *Financial information.* (1) Most recent financial statements, including as a minimum an income statement for 12 months ending on the last day of the last quarter prior to 30 days before the submission of the application and a balance sheet as of the same last day of the income statement, accompanied by an opinion of a certified public accountant.

(2) Financial statement of each corporate member of the applicant.

(3) An estimate of the minimum annual oil throughput required for the deepwater port and associated onshore facilities to break even financially.

(4) Copies of any financial commitments which individual corporate members have entered into with applicant.

(5) An estimate of operating and construction costs and projected revenue based on estimated oil throughput.

(6) Plans for financing operating and construction costs, including sources of financing supported by full details as to the type, amount, and percentage of equity and short-term and long-term financing.

(7) A general projection of the use of the facility during the life of the license including a market analysis of the demand for imported petroleum within the geographic area to be served by the deepwater port and guarantees and options made by specific companies which would provide for sustained use of the facility.

(8) A detailed estimate of the cost of removal of all components of the deepwater port.

(f) *General technical information.* (1) Description of the applicant's experience in offshore operations with particular emphasis on involvement in offshore transfer and storage of liquid cargo and ship to shore transfer operations.

(2) A description of the results of any research and development projects that have been conducted during preparation for submission of an application for a license to own, construct, and operate a deepwater port.

(3) The name of any contractor to be used in constructing any part of the deepwater port, if known, and a description of his experience in construction of marine terminal facilities, offshore structures, underwater pipelines, seabed foundations or any other experience that would bear on his qualification to participate in the construction of a deepwater port.

(4) The name and qualifications of each engineering firm that will design the deepwater port, or any portion of the port.

(g) *Water.* A state water quality certification as required by section 401(a) (1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1341(a)(1).

(g-1) *Coastal zone management.* The certification required by section 307 of the Coastal Zone Management Act of 1972 for each state described in section

- Sec.
148.275 Service of document; other transmittal.
148.277 Conferences.
148.279 Motions.
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148.283 Hearing date.
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APPLICATION APPROVAL OR DENIAL

- 148.321 Decision.
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Subpart D—Issuance of a License

- 148.400 Applicability.
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- 148.501 Applicability.
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- 148.601 Applicability.
148.603 Petition for exemption.
148.605 Form and contents of petition for an exemption.
148.607 Exemption criteria.

AUTHORITY: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504 (a), (b)).

Subpart A—General

§ 148.1 Purpose.

This subchapter prescribes regulations for the licensing, construction, design and equipment, and operation of deepwater ports.

§ 148.3 Definitions.

(a) "Act" means the Deepwater Port Act of 1974.

(b) The terms listed in § 3 of the Act, whenever used in this subchapter, have the same meaning that they have in the Act.

(c) "Platform" means a fixed structure which rests on or is embedded in the sea bed that has floors or decks in which an activity or specific function may be carried out.

(d) "Pumping platform complex" (PPC) means a single platform or a series of interconnected platforms that have one or more of the following capabilities:

(1) Pumping oil from a vessel to the shore.

(2) Berthing and messing facilities for assigned personnel.

(3) Landing area for helicopters.

(4) Mooring and loading for small vessels.

(5) Space for controlling or monitoring oil transfer operations.

(6) Space for other deepwater port operations.

(e) "SPM" means single point mooring buoy.

(f) "Gross under keel clearance" means the distance between the keel of a tanker and the ocean bottom when the tanker is fully loaded with oil and moored or anchored in calm water.

9(a)(1) of the Deepwater Port Act of 1974 if the state has an approved coastal zone management program.

(h) *Grid identification.* Identification of the grid established either by the Secretary of the Interior under § 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) or by a state under the authority of § 3 of the Submerged Lands Act (43 U.S.C. 1311) within which any part of the proposed deepwater port or its approaches may be located. For any grids presently under lease, the applicant must include a copy of an agreement with the lessees providing that the lessees agree not to exercise their rights under the leases within these grids.

(i) *Overall site plan.* A single line drawing showing the location and type of each component of the proposed deepwater port, including floating structures, fixed structures, aids to navigation, manifold systems and onshore storage areas, pipelines, and refineries.

(j) *Site plan for marine components.* A complete site plan consisting of—

(1) The proposed size and location of—

- (i) All fixed and floating structures;
- (ii) Swing circles;
- (iii) Maneuvering areas;
- (iv) Recommended vessel traffic separation plan for approaching the port and the proposed Vessel traffic pattern in the port area;
- (v) Recommended anchorage areas;
- (vi) Recommended mooring area for support vessels;
- (vii) Required and recommended aids to navigation; and
- (viii) Pipelines within the marine site;

(2) The chartered water depth throughout the proposed marine site; and

(3) A hydrographic survey of the proposed marine site.

(k) *Soil data.* An analysis of the general character and condition of the ocean bottom and sub-bottom throughout the marine site and along the path of the pipeline to the shore, including an opinion concerning—

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to the ocean floor; and

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms, or to lesser forces that continue for an extended period.

(l) *Operational information.* (1) The length, draft, and dead weight tonnage of the largest tanker to be accommodated at each SPM.

(2) An analysis of and justification for the adequacy of the selected gross under keel clearance at the marine site for vessels to be accommodated at each SPM including description of the data, sources of data, and techniques used.

(3) A detailed description of, including the manner of determining, the wind, wave, and current conditions during which the following would occur:

(i) Shutdown of oil transfer operations.

(ii) Prohibition on mooring to an SPM.

(iii) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers transiting the traffic lanes and safety zone.

(m) *Floating components data.* (1) A complete description and preliminary design drawing of each floating component, including the hoses and the anchoring or securing structure and navigation lights if the component is a mooring buoy.

(2) The design criteria, developed pursuant to Part 149 of this subchapter, to which each floating component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed on a floating component.

(6) A description of safety, firefighting, and pollution prevention equipment to be used on each floating component.

(7) A description of lighting to be used on floating hoses for night detection.

(n) *Fixed marine components data.*

(1) A complete description and preliminary design drawing of each fixed marine component.

(2) The design criteria, developed pursuant to Part 149, to which each fixed marine component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the result of any design and evaluation studies performed for any fixed marine component.

(6) A description of navigational lighting, safety, lifesaving, firefighting, pollution prevention and removal, and waste treatment equipment to be installed.

(7) A description and preliminary design drawing of the oil pumping equipment, piping system, control and instrumentation system, and any associated equipment, including the oil throughput measuring equipment, leak detection equipment, alarm system, and emergency shutdown equipment.

(8) The personnel capacity of each PPC.

(o) *Offshore pipeline data.* (1) A description and preliminary design drawing of the marine pipeline, including size, throughput capacity, length, depth and protective devices;

(2) The design criteria to which the marine pipeline is to be designed and built;

(3) The design standards and codes to be used;

(4) The title of each recommended engineering practice to be followed;

(5) A description of the metering system to be used to measure flow rate; and

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and the manner in which the crossing will be made.

(p) *Onshore components data.* (1) A description of the location, capacity, and

ownership of, and a preliminary design drawing for construction of new or expansion of existing onshore pipelines, storage facilities, and refineries to be served by the deepwater port.

(2) Location, capacity, and ownership of existing onshore pipelines, storage facilities and refineries to be served by the deepwater port.

(3) A chart showing the location of all planned and existing onshore pipelines, storage facilities, and refineries to be served by the deepwater port.

(q) *Miscellaneous components data.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used on operation of the deepwater port to include the type and characteristics of the radar and the antenna location.

(3) A description of plans and method of bunkering vessels using the deepwater port.

(4) Type, size and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description of the radar beacon (RACON) to be used in operation of the deepwater port.

(r) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port.

(s) *Draft Operations Manual.* A draft Operations Manual for the proposed port.

NOTE: Guidance for preparing a draft Operations Manual is found in the Guidelines for Preparation of a Deepwater Port Operations Manual and may be obtained from the Commandant.

(t) *Environmental analysis.* An environmental analysis prepared in accordance with "Guide to Preparation of Environmental analyses for Deepwater Ports."

NOTE: Detailed guidelines and format for preparation of the environmental analysis are published in "Guide to Preparation of Environmental Analyses for Deepwater Ports."

(u) *Aids to Navigation—(1) Position.* For each proposed aid to navigation, the proposed position described by two or more horizontal angles, or by the bearings and distance, from charted landmarks.

(2) *Maintenance.* For each proposed aid to navigation, the name and address of each person proposed to maintain the aid after installation.

(3) *Obstruction lights and rotating lighted beacon.* For each proposed obstruction light and the proposed rotating lighted beacon, the color, characteristic, effective intensity, height above water, and description of illumination apparatus, including the type, model, and name and address of the manufacturer.

(4) *Fog signals on structures.* For each proposed fog signal on a structure, the characteristic and description, including the model and name and address of the manufacturer.

(5) *Buoys.* (i) For each proposed buoy, the shape, color, number or letter, and depth of water in which located.

(ii) For each proposed buoy light, the information required in paragraph (u) (3) of this section.

(iii) For each proposed fog signal on a buoy, the type, characteristic, and description, including model and name and address of the manufacturer.

(6) *Radar beacon.* For the proposed radar beacon (RACON), radar pulse code, height above water, antenna type, and description, including type, model, and name and address of manufacturer.

(v) *Telecommunications equipment.* The information prescribed by, and submitted on, the appropriate Federal Communications Commission (FCC) forms for applying for the FCC licenses required to operate telecommunication equipment at the port.

(w) *National Pollutant Discharge Elimination System Information.* The information prescribed by, and submitted on, the "National Pollutant Discharge Elimination System (NPDES) Application for Permit to Discharge, Short Form D" for applying for issuance of a discharge permit by the Administrator of the Environmental Protection Agency.

(x) *Discharge of dredged or fill material.* The information prescribed by, and submitted on, Form EP 1145-2-1 contained as Appendix B of "Application for Department of Army Permits for Activities in Waterways, EP 1145-2-1 of 1 October 1974" for each permit issued by the Secretary of the Army in compliance with—

(1) Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403);

(2) Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. 1344); or

(3) Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (86 Stat. 1052; 33 U.S.C. 1413).

(y) *Antitrust review information.* (1) *Corporate Structure.* (i) Name, address and principal business activity of applicant and each affiliate.

(ii) Name and address of any firm controlling applicant or each affiliate.

(iii) A copy of the latest annual balance sheet and income statement and consolidated balance sheet and income statement of applicant and each affiliate.

(2) *Ownership and production of crude oil.* (i) For each state in the United States and for each foreign country, information which shows separately for each applicant and each affiliate:

(A) Proved reserves of crude oil as of December 31 of the 3 calendar years prior to the date of application as submitted to the Committee on Petroleum Reserves of the American Petroleum Institute;

(B) Total production of crude oil during the 3 calendar years prior to the date of application, and;

(C) Net share of crude oil production during the 3 calendar years prior to the date of application.

(3) *Ownership and operation of refineries.* For each refinery within the United

States in which the applicant or any affiliate has an interest, information which shows:

(i) The location of the refinery;

(ii) Runs to still for the 3 calendar years prior to the date of application, and;

(iii) Motor gasoline and distillate fuel oil production for the 3 calendar years prior to the date of application.

(4) *Pipeline ownership and use.* (i) A map or diagram which indicates the location, capacity, throughput and direction of all crude oil gathering lines and crude oil and product pipelines in the United States which applicant or any affiliate uses or has an ownership interest in;

(ii) The percent and nature of interest of each owner for each pipeline in which the applicant or any affiliate has an ownership interest; and,

(iii) A copy of the shareholders agreements and attachments thereto for each pipeline in which applicant or any affiliate holds an interest.

(5) *Extant documents relating to deepwater ports.* (i) A list of all documents in the possession of the applicant or in the possession of any affiliate which relate to deepwater ports, were prepared within three years of the application date, and fall under one or more of the following categories:

(A) Prepared by, for, or submitted to the Board of Directors, executive management, or planning committee of the applicant or any affiliate.

(B) Prepared by the planning department, the economic department, the crude oil supply and distribution department, or financial department of applicant or any affiliate.

(C) Concern the financing of deepwater ports.

(D) Concern the projected profitability of deepwater ports.

(E) Concern membership in a joint venture for the construction, operation, or financing of a deepwater port.

(F) Contain or concern the shareholders agreement for the applicant or attachments or amendments thereto, including but not limited to memoranda concerning the negotiation of such agreements, attachments, or amendments.

(G) Concern common carrier regulations of deepwater ports.

(ii) The date, title, subject, author, and affiliate attesting that the documents listed as required in subparagraph 5(i) of this paragraph will be made available during normal business hours to authorized examiners of the Federal Trade Commission for inspection and copying upon 24 hours notice.

(iv) A detailed description of the persons, offices, and departments of each applicant and affiliate which were involved in the planning, evaluating, or approving participation in the construction, ownership, financing, or operation of deepwater ports.

(v) A certificate signed by each applicant and affiliate attesting that each person described as required in subparagraph 5(iv) of this paragraph will be

available to authorized examiners of the Federal Trade Commission for the purposes of oral interviews under oath.

Subpart C—Application Proceeding

GENERAL

§ 148.201 Purpose.

This subpart prescribes rules of procedure and practice for application proceedings.

§ 148.203 Applicability.

(a) Except as provided in paragraph (b) of this section, the rules in this subpart apply to each application proceeding.

(b) The rules for formal hearings in §§ 148.251–148.291 apply only to application proceedings in which the Commandant issues a notice of formal hearing under § 148.251. The rules for informal hearings in §§ 148.231–148.235 apply only to proceedings to consider applications for issuance, transfer, and renewal of a license.

§ 148.205 Clerk; docket; record.

(a) The mailing address for the clerk in each proceeding is Commandant (G-CMC/82), U.S. Coast Guard, Washington, D.C. 20590. The office of the clerk is located in the Nassif Building, 400 Seventh Street SW., Room 8234, Washington, D.C.

(b) The clerk maintains a docket and the record for each proceeding. The docket lists each document in the record. The record contains all documents filed or issued in the proceeding that the clerk has received and any other documents in the proceeding that are docketed in accordance with this subpart.

§ 148.207 Availability of documents in the record.

(a) The procedure for inspecting and copying documents in the record of a proceeding is contained in 49 CFR Part 7 and section 14 of the Act.

(b) Comments submitted by Federal agencies and departments for each proceeding in accordance with sections 5(e) (2) and 7(b) of the Act are docketed when they are received. Copies of the draft and final environmental impact statements prepared in accordance with section 5(f) of the Act are docketed when they are transmitted to the Council on Environmental Quality.

§ 148.209 Availability of draft environmental impact statement.

Copies of the draft environmental impact statement prepared in each proceeding may be obtained from the application staff.

§ 148.211 Processing an application.

The Chief, Office of Marine Environment and Systems takes the action described in section 5(c) (1) of the Act for processing each application received in a proceeding and for issuing the notices described in section 5(c) (1). If he issues notice of application pursuant to section 5(c) (1) of the Act, the application staff thereafter delivers the application described in the notice to the clerk for docketing. A notice of application for an

amendment also gives notice that interested persons may submit relevant material and written argument concerning the application to the clerk for docketing within 45 days after the date of the notice.

§ 148.213 Changes to an application.

If information in an application becomes inaccurate or incomplete after it is docketed in a proceeding but before the proceeding is terminated, the applicant must promptly file an amendment furnishing the corrected or additional information. Fifty copies of the amendment must be submitted to the application staff when the revisions are filed.

§ 148.215 Withdrawal of application.

An applicant may withdraw his application in a proceeding at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the clerk for docketing.

§ 148.217 Designation of adjacent coastal states under section 9(a)(2) of the Act.

(a) A request under section 9(a)(2) of the Act for designation as an adjacent coastal state in a proceeding must—

(1) Be submitted in writing to the application staff;

(2) Be signed by the Governor of the State or a person he designates; and

(3) State why the designation should be made and may provide any documentation in support of the statement including documentation concerning risk of damage to the coastal environment of the State making the request that could occur as a result of an oil spill at the deep-water port proposed in the proceeding.

(b) The Secretary approves or denies each request submitted under this section.

INFORMAL PUBLIC HEARING

§ 148.231 Notice of public hearing.

After all applications in a proceeding are docketed, the Commandant issues a notice of public hearing and mails or delivers it to any person who requests it. The clerk docketed the notice when it is published. Each notice lists the time and place for the hearings, factual issues in the proceeding, and procedural matters to govern the hearings.

§ 148.233 Testimony and argument.

Interested persons may attend any public hearing, present relevant material at the hearing, and submit briefs and oral argument after the hearing at a time determined by the presiding officer during the hearing.

§ 148.235 Report of public hearing.

As soon as practicable after a public hearing is completed, the presiding officer forwards a report of the hearing to the clerk for docketing. The presiding officer determines and announces to the participants during the course of the hearing what material will be attached to the report.

FORMAL HEARING

§ 148.251 Determination to hold formal hearing; notice of formal hearing.

(a) After the reports of public hearings are docketed in a proceeding, the Commandant determines whether there are specific and material factual issues concerning the applications that may be resolved by a formal hearing. If he determines that a formal hearing is necessary, he issues notice of formal hearing to the applicants, the application staff, and the administrative law judge.

(b) A notice of formal hearing lists the factual issues for resolution at the hearing, the applicants, and the administrative law judge assigned to conduct the hearing.

(c) The clerk mails or delivers a copy of the notice of formal hearing in a proceeding to any person who requests notice of formal hearing.

§ 148.253 Assignment of administrative law judge; disqualification.

(a) The Commandant assigns the administrative law judge for a formal hearing.

(b) The administrative law judge may disqualify himself at any time after assignment by filing notice of withdrawal from the proceeding. If on motion of a party the administrative law judge does not disqualify himself, the party may appeal the ruling to the Commandant by filing notice of appeal within seven days after the ruling on the motion is issued. A brief may be filed with the notice of appeal.

(c) If the assigned administrative law judge becomes unavailable during the proceeding, another administrative law judge is assigned.

§ 148.255 Jurisdiction of the administrative law judge.

(a) The jurisdiction of the administrative law judge over a proceeding begins when he is assigned. His jurisdiction ends 20 days after the transcript of the formal hearing is docketed or when he issues notice of withdrawal from the proceeding.

(b) The Commandant exercises the authority of an administrative law judge in a proceeding when no administrative law judge has jurisdiction.

§ 148.257 Authority of the administrative law judge.

The administrative law judge assigned to a formal hearing may—

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Adopt procedures for the submission of evidence in written form;

(d) Rule on offers of proof and receive relevant evidence;

(e) Examine witnesses at the formal hearing;

(f) Dispose of procedural requests or similar matters;

(g) Convene, recess, reconvene, adjourn, and otherwise regulate the course of the formal hearing;

(h) Certify questions to the Commandant;

(i) If a party to a formal hearing fails to appear at a session of the hearing, proceed with the session without further notice to the party;

(j) Extend or shorten a time prescribed by this subpart to the extent consistent with the 240 day time limit prescribed in § 5(g) of the Act for completing public hearings in a proceeding;

(k) Prescribe a time for doing an act if the time is not prescribed in this subpart; and

(l) Take any other action authorized by or consistent with this subpart, the Act, or 5 U.S.C. 551-559.

§ 148.259 Ex parte communications.

If two or more applications have been filed in a proceeding, or if a person opposing an application has intervened in the proceeding, the administrative law judge may not consult any party on a fact in issue except on notice and opportunity for all parties to participate.

§ 148.261 Parties.

The parties to a formal hearing are the application staff, the applicants, and intervenors in the proceeding.

§ 148.263 Intervention.

(a) Any person may file a petition to intervene in a formal hearing. The petition must be addressed to the administrative law judge, must identify the specific matters in the hearing on which he seeks to intervene and his interest in those matters, and must designate the name and address of a person upon whom service may be made if the petition is granted. A party to the formal hearing may file an answer to a petition within five days after the petition is filed.

(b) A petition to intervene must be filed within ten days after notice of formal hearing is issued.

(c) Intervention may be limited to particular matters or to particular times in the hearing if necessary to prevent repetitious evidence and argument or to control the course of the formal hearing.

(d) If the administrative law judge denies a petition in whole or part, the petitioner may appeal to the Commandant by filing notice of appeal within seven days after the denial is issued. A brief may be filed with the notice of appeal. A party may file a brief in support of or in opposition to the appeal within seven days after the notice of appeal is filed.

§ 148.265 A person not a party.

(a) At any time before a formal hearing, any person who is not a party may submit to the administrative law judge a petition to present evidence at the formal hearing. The petition must be sent to the administrative law judge or to the clerk who will forward it to the administrative law judge. The petition must contain a statement describing in detail the evidence to be presented and must show its relevancy to factual issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling delineates the evidence that may be presented at the formal hearing.

§ 148.267 Appearance and practice.

(a) Each party to a formal hearing, except an individual, must appear by his attorney. Each attorney must file a notice of appearance that states his name, address, telephone number, and the name of the person he represents.

(b) The administrative law judge assigned to the formal hearing may suspend or bar an attorney from representing a person in the proceeding if he finds that the attorney—

(1) Is not admitted in good standing to practice before a Court of the United States or the highest court of any state, territory, or possession of the United States; or

(2) Has failed to conform to the standards of conduct required for attorneys in the Courts of the United States.

(c) The administrative law judge may exclude any person from a formal hearing or a conference if the person is contumacious at the hearing or conference.

§ 148.269 Requirements for documents.

(a) Each document, except an application, filed in a proceeding or submitted to the administrative law judge must—

(1) List the docket number of the proceeding; and

(2) Be signed in ink by the person filing or submitting the document and show the capacity of the person signing, his address, and the date of signing.

(b) Each document filed in a proceeding, except an application, must—

(1) Be accompanied by ten copies of the document;

(2) Show the name and address of each person upon whom a copy of the document has been served;

(3) Be accompanied by an affidavit showing proof of service if the person serving the process is not an attorney; and

(4) Contain the following certificate of service if the person serving the process is an attorney:

I hereby certify that I have this day served the foregoing document upon _____ in accordance with § 148.275 of the Rules of Procedure.

Dated at _____ this _____ day of _____, 19____.

Signature _____
For _____
Name of Party or
Petitioner

§ 148.271 Subscription.

The signature on a document filed, served, or submitted to the administrative law judge in a proceeding is certification by the person signing that he has full authority to sign the document, that he has read it and knows its contents, that to the best of his knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay.

§ 148.273 Filing.

(a) A document is filed in a proceeding when it meets the requirements in

§ 148.269 of this subpart and is either mailed or delivered to the clerk.

(b) If the clerk receives a document that does not comply with § 148.269 of this subpart, he returns it to the person who submitted it with a statement of reasons for the return.

(c) Filing by mail must be by certified mail.

§ 148.275 Service of document; other transmittal.

(a) The clerk serves each order, ruling, decision, and notice upon all parties to a formal hearing when issued, except a document issued at the formal hearing or a prehearing conference.

(b) Each document before it is filed in a proceeding must be served upon—

(1) All parties, except the person filing the document; and

(2) The administrative law judge or if no administrative law judge has jurisdiction, the Commandant.

(c) Service of a document upon a party must be made upon the attorney representing the party, or for a party not represented by an attorney, upon the party.

(d) Service must be made by handing a copy of the document to the person to be served or depositing a copy of the document in the mail.

(e) This section does not apply to service of subpoenas. Rules for serving subpoenas are in § 148.281 of this subpart.

(f) The clerk mails to a person who is not a party, and who has submitted a petition or motion in the proceeding, a copy of the ruling on the petition or motion when issued and a copy of the action taken on any appeal of the petition. He mails a copy of the notice of the formal hearing, when the notice is issued, to each person whose petition to present evidence has been granted under § 148.265 of this subpart.

(g) The clerk provides the applicants and the administrative law judge with a copy of each application and report of public hearing docketed in the proceeding.

§ 148.277 Conferences.

(a) The administrative law judge may hold one or more prehearing conferences to give the parties an opportunity to present and consider facts and arguments, to exchange exhibits proposed to be offered in evidence, and to obtain stipulations, admissions, and agreements to produce documents and other tangible things. The administrative law judge may consider at a conference the procedure to be followed at the formal hearing, limitations on the number of witnesses at the hearing, and any other matters that may expedite the disposition of the proceeding.

(b) The administrative law judge may hold conferences during a formal hearing to expedite the disposition of the proceeding.

(c) If a prehearing conference is held, the administrative law judge issues a notice reciting the action taken at the conference and any agreements made between the parties.

§ 148.279 Motions.

(a) Any request for a ruling or relief in a proceeding, except a request for a subpoena or a petition to intervene or present evidence at a formal hearing, must be submitted by motion. Each motion must be addressed to the administrative law judge, state the ruling or relief sought and the grounds therefor, and be accompanied, if appropriate, by a proposed form of order. Each written motion must be filed. An oral motion may be made only at the formal hearing or a conference.

(b) Within seven days after service of a written motion, a party may file an answer supporting or opposing the motion.

(c) Unless otherwise authorized by the administrative law judge, no oral argument is heard on a written motion. A brief may be filed with a written motion or an answer to a written motion.

(d) The administrative law judge issues a ruling and any appropriate order for each motion made.

(e) Except as otherwise provided in §§ 148.253 and 148.263 of this subpart, a ruling of the administrative law judge on a motion may not be appealed to the Commandant. The administrative law judge may refer any ruling to the Commandant for review if he determines that the ruling involves an important question of law or policy.

§ 148.281 Subpoenas.

(a) At any time before a formal hearing is completed, a party may submit a request to the administrative law judge for issuance of a subpoena. A request for issuance of a subpoena must show the general relevance and scope of the evidence sought.

(b) A proposed subpoena and fifteen copies, and witness fees for one day and mileage, must be submitted with each request. A proposed subpoena must contain—

(1) The docket number of the proceeding;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of Deepwater Port for coastal waters off (insert name of the coastal state closest to the proposed deepwater port)";

(3) The name and office of the administrative law judge;

(4) A statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony or, for a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(5) Notice of the procedure in § 148.279 and paragraph (e) of this section for quashing a subpoena.

(c) Unless otherwise authorized by the administrative law judge, a subpoena must be served by exhibiting a copy of the subpoena and leaving the copy with the person to be served. After service or attempted service, the person serving the subpoena must return it to the administrative law judge. If a person other than

a United States marshal or his deputy serves the subpoena, he must attach an affidavit to the subpoena stating the date, time, and manner of service. If service cannot be made, the reasons for not making service must be stated on the subpoena.

(d) A subpoenaed witness is paid the same fees and mileage paid to witnesses subpoenaed in District Courts of the United States. The person requesting a subpoena must pay the fees and mileage.

(e) Any motion to quash a subpoena must be submitted within seven days after service of the subpoena.

(f) If a person does not comply with a subpoena and the administrative law judge on motion rules that good cause has been shown for seeking judicial enforcement of a subpoena, he refers his ruling to the Commandant.

§ 148.283 Hearing date.

(a) The administrative law judge schedules the formal hearing by issuing a notice to the parties.

(b) The clerk mails or delivers a copy of the notice to any person who requests it.

§ 148.285 Reporter; transcript; corrections.

(a) The reporter for a formal hearing is arranged for by the clerk. The reporter prepares a verbatim transcript of the hearing under the supervision of the administrative law judge. Nothing may be deleted from the transcript unless ordered by the administrative law judge and noted in the transcript.

(a) After a formal hearing is completed, the administrative law judge certifies and forwards the transcript to the clerk for docketing.

(c) At any time within 20 days after the transcript is docketed, the administrative law judge may make corrections to the certified transcript. Corrections when filed are attached to the transcript as appendices. Any motion to correct the transcript must be submitted within ten days after the transcript is docketed.

§ 148.287 Order of procedure.

The administrative law judge determines the order of procedure for each formal hearing.

§ 148.289 Evidence.

A party may present evidence and conduct cross-examination of witnesses at a formal hearing. Other persons may present evidence that they have been authorized to present under § 148.265 of this subpart.

§ 148.291 Rulings referred or appealed to the Commandant.

(a) The Commandant reviews each ruling referred or appealed to him under this subpart and issues a ruling and any appropriate order. Unless otherwise ordered by the Commandant or the administrative law judge, review of a ruling does not stay a formal hearing or extend a time period prescribed by this subpart.

(b) If the administrative law judge refers a ruling to the Commandant, he gives notice to the parties of the referral.

APPLICATION APPROVAL OR DENIAL

§ 148.321 Decision.

The Secretary issues the decision approving or denying each application in a proceeding.

§ 148.323 Termination of proceeding before approval or denial of an application.

The Commandant terminates a proceeding if—

(a) All applications are withdrawn before the decision approving or denying them is issued; or

(b) In a proceeding with one application that does not have all of the information required by Subpart B of this Part, the applicant after inquiry by the application staff does not provide adequate assurance that further information to make the application is forthcoming.

Subpart D—Issuance of a License

§ 148.400 Applicability.

This Subpart prescribes rules that apply to the issuance of a license under the Act.

§ 148.403 Issuance of a license.

If an application under the Act is approved, a license is issued which contains the following:

(a) The name and number or identification of the port.

(b) The name of the owner and operator of the port.

(c) Conditions to the ownership, construction, and operation of the deepwater port issued under section 4(e) of the Act.

§ 148.405 Term of license.

Each license prescribes the term of the license as a condition.

Subpart E—Site Evaluation

§ 148.501 Applicability.

This Subpart prescribes rules that apply to site evaluation at potential deepwater port locations.

§ 148.503 Report of evaluation.

Any person who plans to conduct a site evaluation or preconstruction testing for a potential deepwater port location shall submit the following information to the application staff at least 90 days before conducting the site evaluation or preconstruction testing:

(a) The location of the site.

(b) A detailed description of the on-site tests and evaluations to be conducted and of the data collection methods to be used.

Subpart F—Rules of Procedure for Exemptions From Any Requirements in Deepwater Port Regulations

§ 148.601 Applicability.

This Subpart sets forth the procedures governing exemptions from any requirements in this Subchapter.

§ 148.603 Petition for exemption.

Any person required to comply with any specific requirements in this Subchapter may submit a petition to the Commandant for an exemption.

§ 148.605 Form and contents of petition for an exemption.

A petition must be submitted in writing. It may be in any form, but it must be specific and it must contain all data necessary to evaluate its merits.

§ 148.607 Exemption criteria.

The Commandant grants an exemption if he determines that—

(a) Compliance with the regulations would be contrary to the public interest;

(b) Compliance is not necessary;

(c) Compliance would not enhance safety or the environment;

(d) Compliance is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(e) National defense or national economy justify a departure from the rules; or

(f) The alternative proposed in the application would ensure comparable or greater safety, environmental protection, quality of construction, maintenance and operation of a deepwater port, and would be consistent with recognized principles of international law.

PART 149—DESIGN, CONSTRUCTION, AND EQUIPMENT

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AUTHORITY: Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-8 (33 U.S.C. 1509(a), (b)).

Subpart A—General

§ 149.101 Purpose.

This part prescribes design, construction, and equipment requirements for each deepwater port.

§ 149.105 Licensee.

The licensee of a deepwater port shall ensure that the port meets the design and construction requirements in this part.

Subpart B—Design, Construction, and Equipment; General

§ 149.201 Applicability.

This subpart prescribes requirements for design, construction, and equipment that apply to each deepwater port.

§ 149.203 Submission of construction drawings.

The licensee of a deepwater port shall submit to the Commandant—

(a) Two complete sets of construction drawings of each fixed marine and floating component and each offshore pipeline certified by a registered professional engineer at least ninety days before he starts to construct the component; and

(b) Two sets of record drawings on 105 mm negatives when the component is constructed. Each negative must be—

- (1) Placed in an individual envelope; and
(2) Identified and indexed.

§ 149.205 Design standards.

(a) Each fixed marine and floating component of a deepwater port, except hoses and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur in any period of 100 years at the port.

NOTE: "Recommended Procedure for Developing Deepwater Ports Design Criteria" describes a method to determine the wind, wave, and current criteria for use in determining the forces of the storm described by this paragraph. This guide may be obtained from the Commandant.

(b) Each platform must be designed in accordance with the American Petroleum Institute "Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms" (API RP 2A) fifth edition, January 1974, and the codes and standards in API RP 2A, to the extent that the recommended practice, codes, and standards are consistent with this subchapter.

(c) Each electrical installation on a platform must be designed to the extent practicable in accordance with the American National Standards Institute "Practice for Electrical Installations on Shipboard" (ANSI C 110.1-1972).

(d) Each boiler and pressure vessel on a platform must be designed in accordance with Sections I, IV, and VIII of the American Society of Mechanical Engineers "ASME Boiler and Pressure Vessel Code", 1974 edition, to the extent that the code is consistent with this subchapter.

§ 149.206 Construction.

(a) The following walls on a platform must meet the requirements in 46 CFR 92.07-5(b) for "A" class bulkheads on cargo vessels, except that each wall must be made of steel:

(1) Each wall that separates a galley, a paint and lamp locker, a space housing emergency power generating equipment, or a cargo or machinery space from any other space.

(2) Each wall of a stairway that connects 3 or more decks.

(3) Each wall of an elevator shaft, of a dumbwaiter shaft, and of any other shaft connecting two or more decks.

(b) The following walls on a platform must meet the requirements in 46 CFR 92.07-5 (b) or (c) for "A" or "B" class bulkheads on cargo vessels:

(1) Each corridor wall of a personnel accommodation space.

(2) Each wall of a stairway that connects two decks or each wall of a structure enclosing an opening to the stairway.

(c) A platform wall that is not described in paragraph (a) or (b) of this section must meet the requirements in 46 CFR 92.07-5 (b), (c), or (d) for "A", "B", or "C" class bulkheads on cargo vessels.

(d) Each deck and stairway on a platform must be made of steel and may have a deck covering.

(e) A space that is described in paragraphs (a) (2) or (a) (3) of this section must be enclosed by walls.

(f) Each interior stairway that connects two decks on a platform must be enclosed by walls or an opening to the stairway must be enclosed by a structure.

(g) Each interior stairway that connects three or more decks on a platform must have an opening in each deck.

(h) Each opening in a wall on a platform must have a door that meets the requirements in this section for the wall. Each door must—

- (1) Be a self-closing type;
(2) Not have holdback hooks or other means to hold the door open; and

(3) Not have a louver or other opening, except that a door to a sleeping space may have a louver in the lower half.

(i) Each deck covering on a platform must be a type that is approved under 46 CFR Subpart 164.006 for deck coverings on cargo vessels.

(j) Each ceiling, sheathing, furring, and insulation on a platform, and each holding piece that secures a wall, ceiling, or insulation on a platform, must be an incombustible material of a type that is approved under 46 CFR, Subpart 164.009 for cargo vessels.

(k) The interior finish on each wall and ceiling in a corridor or hidden space on a platform, and any interior finish of a thickness greater than 2/28 inches on any other wall or ceiling on a platform, must be a type that is approved under 46 CFR, Subpart 164.012 for cargo vessels.

§ 149.207 Environmental protection.

Each component must be designed to meet Federal laws and regulations governing the prevention of the discharge of pollutants.

§ 149.209 SPM's.

Each SPM must meet the Rules for Building and Classing Single Point Moorings of the American Bureau of Shipping.

§ 149.211 Emergency equipment.

Each platform must have installed mountings for each item of—

- (a) lifesaving equipment; and
- (b) portable and semiportable fire-fighting equipment.

§ 149.213 Helicopter fueling facilities.

Helicopter fueling facilities must comply with the requirements of the National Fire Protection Association, National Fire Code 407, Part IV "Fueling and Elevated Heliports." For the purpose of this part, "ground level" means "below the lowest platform working level."

§ 149.215 Interference with helicopter operations.

Aids to navigation, communication, or radar equipment must be installed so as not to interfere with helicopter operations.

§ 149.217 First aid station.

Each PPC must have a first aid station that has adjoining space for six beds or, if the personnel capacity of the PPC is less than 90, one bed for every 15 persons.

Subpart C—Pollution Prevention Equipment

§ 149.301 Applicability.

This subpart prescribes requirements for pollution equipment that apply to each deepwater port.

§ 149.303 Overflow and relief valve.

No oil transfer system overflow or relief valve may be installed so as to allow an oil discharge.

§ 149.305 Remotely controlled shut-off valve.

Each pipeline end manifold at a single point mooring (PLEM) must have

a shut-off valve that can be remotely controlled from the cargo transfer supervisor's normal place of duty.

§ 149.307 Blank flange and butterfly valve.

Each floating hose string must have a blank flange and a butterfly valve at the vessel manifold end.

§ 149.309 Manually operated shut-off valve.

Each oil transfer line must have a manual shut-off valve on each SPM buoy.

§ 149.311 Malfunction detection system.

Each oil transfer system must have a system that can—

- (a) Detect and locate all leaks and other malfunctions, between the PLEM and the shore; and
- (b) Be monitored at the cargo transfer supervisor's normal place of duty.

§ 149.313 Oil transfer system alarm.

Each oil transfer system must have an alarm system to signal a malfunction or failure of the system that is—

- (a) Capable of being activated at the cargo transfer supervisor's normal place of duty;
- (b) Audible in all parts of the PPC except in areas of high ambient noise levels where hearing protection is required under § 150.509(d) of this subchapter;
- (c) Visible in areas of the PPC where hearing protection is required under § 150.509(d) of this subchapter by use of a high intensity flashing light; and
- (d) Distinguishable from the general alarm.

§ 149.315 Marking of oil transfer system alarm.

(a) Each oil transfer alarm switch must be identified by the words "OIL TRANSFER ALARM" in red letters at least one inch high on a yellow background.

(b) Each audio and each visual oil transfer alarm signaling device under § 149.313 must have a sign with the words "OIL TRANSFER ALARM" in red letters at least one inch high on a yellow background.

§ 149.317 Communications equipment.

(a) Each deepwater port must have—

- (1) A means that enables two-way voice communication among the following persons—

- (i) The cargo transfer supervisor;
 - (ii) the vessel's officer in charge of cargo transfer;
 - (iii) The cargo transfer observer;
 - (iv) The terminal supervisor;
 - (v) The master or person in charge of service craft operating at the deepwater port; and
 - (vi) The person in charge on the PPC;
- (2) A means, which may be the communications system itself, that enables each of the persons listed in subparagraph (1) of this section to indicate his desire to communicate with another of those persons.

(3) All communications equipment and facilities required by Title 47, Code of Federal Regulations.

(b) Each portable means of communications used to meet the requirements of this section must be—

- (1) Certified under 46 CFR 111.805 to be operated in a Group D, Class 1, Division 1, Atmosphere; and
- (2) Permanently marked with the atmospheric conditions in which it may be safely operated.

§ 149.319 Discharge containment and removal material and equipment.

(a) Each deepwater port must have stored, on the pumping platform or on a service craft operating at the deepwater port, oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons.

(b) Each deepwater port must have readily accessible additional containment and removal material and equipment for containing and removing oil discharges greater than 10,000 U.S. gallons. For the purpose of this paragraph, "access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that will best meet the requirements of paragraphs (a) and (b) of this section must be determined in view of—

- (1) Oil handling rates of the deepwater port;
- (2) Volume of oil susceptible to being spilled;
- (3) Frequency of oil transfer operations at the deepwater port;
- (4) Prevailing wind and sea state condition at the deepwater port;
- (5) Age, capability, arrangement of and experience with the oil transfer system equipment at the deepwater port; and
- (6) Whether the discharge containment and removal material and equipment is shared and the expected frequency of use and probability of availability.

Subpart D—Safety Equipment

§ 149.401 Applicability.

This subpart prescribes requirements for safety equipment that apply to each deepwater port.

§ 149.402 Equipment not required on a PPC.

Each item of lifesaving and firefighting equipment on a PPC that is not required by this subpart must be approved under 46 CFR, Part 160 or 162.

CURBS, GUTTERS, DRAINS, AND RESERVOIRS

§ 149.403 Curbs, gutters, drains, and reservoirs.

Each platform must have enough curbs, gutters, drains, and reservoirs to collect all of the following discharges and wastes in the reservoirs:

- (1) All discharges from equipment, maintenance ships, and refueling facilities; and

(2) All laboratory, sanitary, galley, and deck cleansing wastes, and similar wastes.

EMERGENCY POWER

§ 149.411 Emergency power.

(a) Each PPC must have emergency power generating equipment to provide power to operate all of the following at any time:

- (1) Emergency lighting circuits.
- (2) Aids to navigation equipment.
- (3) Communications equipment.
- (4) Radar equipment.
- (5) Alarm systems.
- (6) Sewage treatment equipment.
- (7) Electrically operated fire pumps.
- (8) Other electrical equipment designated in the Operations Manual by the licensee.

(b) No emergency power generating equipment required by this section may be located in a principal engineering space.

MEANS OF ESCAPE

§ 149.421 Means of escape from platform.

(a) Each platform must have at least one means of escape from the highest working level to the water with an entry at each working level.

(b) Each platform with living spaces must have at least two fixed means of escape from the highest level with living spaces to the water with an entry at each working level.

(c) Each platform must have at least one fixed or unfixed means of escape for every ten persons on board the platform, including the means of escape required under paragraphs (a) and (b) of this section.

(d) When two or more fixed means of escape are installed, at least two must be as far from each other as practicable.

(e) Each fixed means of escape required under this section must be a steel ladder or steel stairway.

(f) Each unfixed means of escape required under this section must be—

- (1) A portable ladder;
- (2) A flexible ladder; or
- (3) A knotted man rope.

§ 149.423 Means of escape from helicopter landing pad.

Each helicopter landing pad on the PPC must have at least two fixed means of escape—

- (a) From the pad to the first working level below the pad or the water; and
- (b) As far from each other as practicable.

PERSONNEL LANDINGS

§ 149.431 Personnel landings.

Each PPC must have at least two personnel landings for access to the platform from the water unless—

- (a) Personnel landings are not possible because of the PPC design; and
- (b) The PPC has a personnel basket transfer system.

§ 149.433 Personnel landing illumination.

Each personnel landing must have at least 1 foot-candle of artificial illumina-

tion on its guard rails or fence and on its deck.

GUARD RAILS, FENCES, NETS, AND TOEBOARDS

§ 149.441 Open sided deck, deck opening, catwalk, and helicopter pad protection.

(a) Each open sided deck, deck opening, and catwalk on each PPC must have protection that meets the "Safety Requirements for Floor and Wall Openings, Railings, and Toeboards" of the American National Standards Institute (ANSI A12.1-1973), except each must have toeboards.

(b) Each open side of each helicopter landing pad on the PPC must have—

- (1) Safety net; or
- (2) A lowered walkway that is 48 inches wide, is not more than 42 inches below the level of the pad, and has guard rails that meet the requirements at ANSI A12.1-1973, except each must have toeboards.

FIXED FIRE MAIN SYSTEM FOR WATER

§ 149.451 Fixed fire main system for water.

Each PPC must have a fixed fire main system for water that meets the requirements in §§ 149.453 through 149.477.

§ 149.453 Fire pumps.

(a) Each PPC must have at least two independently driven fire pumps that can deliver two streams of water at a continuous pilot tube pressure of at least 75 p.s.i. at each fire hose nozzle.

(b) Each fire pump must have—

- (1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement of paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own water source.

(c) Fire pumps may only be connected to the fire main system.

§ 149.455 Fire pump location.

(a) No fire pump may be located in the same space as another fire pump.

§ 149.457 Fire hydrants.

(a) Each part of the PPC that is accessible to any person, except machinery spaces, must have enough fire hydrants so that it can be sprayed with at least two spray patterns of water. At least one spray pattern of water must be from one length of hose.

(b) Each PPC must have enough fire hydrants so that each machinery space can be sprayed with at least two spray patterns of water from separate hydrants. Each spray pattern of water must be from one length of hose.

§ 149.459 Fire hydrant outlet.

The outlet on each fire hydrant must not point above the horizontal.

§ 149.461 Fire hydrant and control valve shut-off valve.

Each fire hydrant and control valve must have a shut-off valve.

§ 149.463 Fire hydrant access.

Any equipment that is in the same space as a fire hydrant must not interfere with access to that hydrant.

§ 149.465 Spanner.

Each fire hydrant must have at least one spanner at the fire hydrant.

§ 149.467 Fire hose rack.

(a) Each PPC must have a hose rack at each hydrant.

(b) Each fire hose rack must be visible.

(c) Each fire hose rack in an exposed location must be protected from weather.

§ 149.469 Fire hose size.

Each length of fire hose must—

(a) Be of 1½ or 2½ inch nominal hose size diameter;

(b) Be of 50 foot nominal hose size length; and

(c) Meet Underwriters' Laboratories, Inc., Standard 18 or 19, or Federal specification JJ-H-571B or 22-H-451D.

§ 149.471 Fire hose coupling.

Each fire hose coupling must—

(a) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and

(b) Have 9 threads per inch for 1½ inch hose or 7½ threads per inch for 2½ inch hose.

§ 149.473 Fire hose nozzle.

Each fire hose nozzle must be a combination solid stream and water spray fire hose nozzle that is approved under 46 CFR 162.027.

§ 149.475 Fire hose in exposed location.

The fire hydrant that is nearest to the edge of each exposed location must have enough lengths of fire hose connected to it to gooseneck over the edge.

§ 149.477 Spray applicator.

Each PPC must have a low velocity spray applicator that is approved under 46 CFR 162.027 at each fire hydrant.

OTHER FIRE EXTINGUISHING SYSTEMS

§ 149.481 Other fire extinguishing systems.

(a) Each PPC must have an automatically operated fire extinguishing system in addition to the fire main system required under § 149.451 that meets the National Fire Protection Association standards listed in paragraph (b) of this section in the following locations:

- (1) Dry storage compartments.
- (2) Lamp and paint lockers.
- (3) Pump rooms.
- (4) Machinery spaces.

(b) Each system required under paragraph (a) of this section must be one of the following automatic systems:

- (1) Water sprinkle system that meets NFPA No. 13-1973.
- (2) Carbon dioxide system that meets NFPA No. 12-1973.
- (3) Halogenated agents system that meets NFPA No. 12A-1973.

(4) Foam system that meets NFPA No. 11-1973.

(c) Each system required under paragraph (a) of this section must activate the general alarm system when it operates.

(d) To the extent practicable, materials in each item of equipment required by paragraph (a) of this section must have enough resistance to the adverse effects of the marine environment so that only minimum maintenance is needed to comply with § 150.503 of this subchapter.

§ 149.483 Foam system for helicopter pads.

Each PPC must have a foam fire extinguishing system on each helicopter landing pad that—

(a) Can deliver at least 200 g.p.m. of foam solution through two 100 g.p.m. nozzles for 15 minutes; and

(b) Does not interfere with any fire hydrant.

FIRE DETECTION AND ALARM SYSTEMS

§ 149.491 Fire detection and alarm system.

(a) Each PPC must have the following fire detection systems that activate the general alarm system:

(1) An ionization type automatic smoke detection system in each sleeping space.

(2) A combination fixed-temperature and rate-of-rise heat detector system in each non-sleeping space that does not have an automatic fire extinguishing system unless the space is subject to a 15°F or greater per minute rate of rise.

(3) A fixed-temperature detector system in each nonsleeping space that does not have an automatic fire extinguishing system and that is subject to a 15°F or greater per minute rate of rise.

(b) To the extent practicable, materials in each item of equipment required by this section must have enough resistance to the adverse effects of the marine environment so that only minimum maintenance is needed to comply with § 150.503 of this subchapter.

§ 149.501 Portable and semiportable fire extinguishers.

(a) Each PPC must have portable or semiportable fire extinguishers that are approved by the Coast Guard under 46 CFR 162.028 or 162.039.

(b) Each semiportable fire extinguisher must be fitted with hose and nozzle or other apparatus so that the entire space in which the extinguisher is located may be protected.

§ 149.503 Location of extinguishers.

(a) Fire extinguishers must be installed in accordance with Table 145.10(a) in § 145.10 of this chapter.

(b) Each fire extinguisher must be located so it can easily be seen.

§ 149.511 Landing area with no fueling facility.

Each helicopter landing area on the PPC with no fueling facility must have at least two USCG Type B:C, size IV dry chemical extinguishers that are

compatible with operation of the foam system required under § 149.483.

§ 149.513 Landing areas with a fueling facility.

Each helicopter landing area on the PPC with a fueling facility must have—

(a) At least two USCG Type B:C, size II dry chemical extinguishers and at least one USCG Type B:C, size V dry chemical extinguisher; and

(b) A USCG Type B:C, size II dry chemical extinguisher at the emergency control station.

LIFESAVING EQUIPMENT

§ 149.521 Lifeboats and inflatable life rafts: general.

(a) Each PPC must have enough lifeboats or inflatable life rafts, or enough of both, for 200% of the personnel capacity of the PPC, except that each PPC must have at least two lifeboats.

(b) Each lifeboat on a platform must be mounted on the outboard side of the platform in a location that is easily accessible to persons onboard and that is as far apart as practicable from each other lifeboat.

(c) No lifeboat and no launching equipment for an inflatable life raft may be mounted next to a discharge opening on a platform unless the opening has a baffle or a remotely controlled device to close the opening.

§ 149.522 Lifeboats.

(a) Each lifeboat on a platform must be approved under 46 CFR, Subpart 160.035 and have the equipment required by 46 CFR 94.20-10 for a lifeboat on an ocean and coastwise vessel other than a seagoing barge. Except for boathooks, the equipment must be securely attached to the lifeboat.

(b) Each lifeboat on a platform must be motor propelled and have an installed cover that provides protection from exposure and flash burns during operation of the lifeboat.

§ 149.523 Inflatable life rafts.

Each inflatable life raft on a platform must be approved under 46 CFR, Subpart 160.051 as an inflatable life raft intended for an ocean service vessel.

§ 149.524 Launching equipment for life rafts.

(a) Each PPC must have the following launching equipment for each lifeboat required by § 149.521 of this subpart:

(1) A winch that is approved under 46 CFR, Subpart 160.015 and that has a grooved drum with only one layer of wire.

(2) Mechanical disengaging apparatus that is approved under 46 CFR, Subpart 160.033.

(3) Davits that are approved under 46 CFR, Subpart 160.032.

(4) Load bearing components that meet the requirements in 46 CFR 94.33-5(a), (c), (d), and (e) and 46 CFR 94.33-10.

(b) If a lifeboat is mounted more than 30 feet above mean low water, the

launching equipment for the lifeboat must be capable of operation from the lifeboat and from the PPC.

§ 149.525 Launching equipment for inflatable life rafts.

(a) Each PPC must have enough of the following launching equipment for inflatable life rafts to launch all of the life rafts required by § 149.521 of this subpart within 30 minutes:

(1) A winch that is approved by the Commandant.

(2) Mechanical disengaging apparatus that is approved by the Commandant.

(3) Davits that are approved by the Commandant.

(4) Load bearing components that meet the requirements in 46 CFR 94.33-5(a), (c), (d), and (e) and 46 CFR 94.33-10.

(b) Launching equipment for an inflatable life raft must be capable of operation from the life raft and from the PPC.

§ 149.526 Ring life buoys.

(a) Each PPC must have at least 8 ring life buoys and mounting racks.

(b) Each platform must have at least one ring life buoy and mounting rack on each side of the platform.

(c) Each ring life buoy required by this section must be approved under 46 CFR, Subpart 160.050 and must be international orange.

(d) Fifty percent of the ring life buoys required by this section must have an electric water light approved under 46 CFR, Subpart 160.010. Each electric water light must be attached to a buoy by a 3 to 6 foot lanyard.

(e) At least one ring life buoy on each side of each platform must have a buoyant line attached to the buoy that is 1½ times the distance from the buoy to the mean low water line of the platform or 15 fathoms in length, whichever is greater.

(f) Each ring life buoy required by this section must be easily accessible to persons on board.

§ 149.527 Portable radio apparatus.

Each PPC must have portable radio apparatus that meets the requirements in 46 CFR 94.55-1.

§ 149.528 Distress signals.

(a) Each PPC must have 12 hand-held, rocket-propelled, parachute, red flare, distress signals that are approved under 46 CFR, Subpart 160.036.

(b) Distress signals required by this section must be stored in portable watertight containers.

§ 149.529 Life preservers.

(a) Each PPC must have enough adult life preservers for 125% of the personnel capacity of the PPC.

(b) Each life preserver must be approved under 46 CFR, Subpart 160.002, 160.005 or 160.055 and must be easily accessible to persons on board the PPC.

§ 149.533 Litters.

Each platform must be equipped with at least one stokes litter that is placed in

a location that is accessible to persons on board.

§ 149.535 Markings on lifeboats, lifeboats, liferafts, paddles, and oars.

(a) Each lifeboat, lifeboat, and liferaft must be marked with—

(1) The identification of the deepwater port; and

(2) The personnel capacity in letters and numbers at least 1½ inch high.

(b) Each inflatable liferaft must be marked as required under 46 CFR 160.051.

(c) Each paddle and each oar must be marked with the identification of the deepwater port.

§ 149.537 Markings for life preservers and ring life buoys.

Each life preserver and each ring life buoy must be marked with the identification of the deepwater port.

§ 149.538 Medical equipment.

(a) Each platform must have a first aid kit that meets the requirements in 46 CFR 160.041.

(b) Each first aid station on a PPC must have enough equipment for the person described in § 150.525 of this subchapter to provide emergency medical care.

§ 149.539 Portable lights.

Each portable light on a PPC must—

(a) Have reflectors and guards that prevent flammable and other material from coming in contact with the bulb; and

(b) Have the U.S. Coast Guard approval label or the Underwriters' Laboratories, Inc. Marine Label.

§ 149.541 General alarm system.

(a) Each PPC must have a general alarm system to signal fires and other emergencies.

(b) Each general alarm system must be—

(1) Capable of being activated by the automatic fire detection systems required under § 149.491 and manually by use of alarm boxes located in accordance with the National Fire Protection Association standard No. 72A-1972;

(2) Audible in all parts of the PPC except in areas of high ambient noise levels where hearing protection is required under § 150.509(d) of this subchapter; and

(3) Visible in areas of the PPC where hearing protection is required under § 150.509(d) of this subchapter by use of a high intensity flashing light.

§ 149.543 Marking of general alarm system.

(a) Each general alarm box must be identified by the words "GENERAL ALARM" in red letters at least one inch high on a yellow background.

(b) Each audio and each visual general alarm signalling device under § 149.541 must have a sign with the words "GENERAL ALARM" in red letters at least one inch high on a yellow background.

§ 149.545 Public address system.

Each PPC must have a public address system operable from two locations on the PPC to allow an announcement of fires, oil transfer system failure or malfunction, and other emergencies.

Subpart E—Aids to Navigation at Deepwater Ports

GENERAL

§ 149.701 Applicability.

This subpart prescribes the minimum requirements for aids to navigation at a deepwater port and the waters adjacent to the port.

§ 149.703 Effective intensity: definition.

For the purpose of this subpart, "effective intensity" is the intensity of a flashing light calculated by using equation [3-27] for effective intensity in the Illumination Engineering Society Light-Handbook, Fifth Edition, 1972, p. 3-36.

§ 149.705 Applicability of other regulations.

Sections 66.01-5, -25 (a) and (c), -50, and -55 of this chapter also apply to aids to navigation at a deepwater port. For the purpose of § 66.01-25 (a) and (c) of this chapter, aids to navigation at a deepwater port are Class I aids to navigation.

SPECIFICATIONS FOR LIGHTS

§ 149.721 Light source.

Each light must have a tungsten-incandescent light source.

§ 149.723 Intensity.

(a) Each light on a buoy, hose string, and SPM must—

(1) Have at least the effective intensity required by this subpart for the light at all angles, the origin of which is the focal point of the light, that are included within $\pm 1^\circ$ from the focal plane of the light; and

(2) Have at least 50% of the effective intensity required by this subpart for the light at all angles, the origin of which is the focal point of the light, that are included within $\pm 2^\circ$ from the focal plane of the light.

(b) Each light on a platform, including the rotating lighted beacon, must—

(1) Have at least the effective intensity required by this subpart for the light at all angles, the origin of which is the focal point of the light, that are included within $\pm 0.5^\circ$ from the focal plane of the light; and

(2) Have at least 50% of the effective intensity required by this subpart for the light at all angles, the origin of which is the focal point of the light, that are included within $\pm 1^\circ$ from the focal plane of the light.

§ 149.725 Color.

The transparent cover of each light, including the top of the cover, must be uniform in color.

§ 149.727 Chromaticity.

The color emitted by a light at all angles, the origin of which is the focal

point of the light, that are included within $\pm 1^\circ$ of the focal plane of the light must have chromaticity coordinates lying within the boundary defined by the corner coordinates in Table 1 in this section when plotted on the International Commission on Illumination (CIE) 1931 Standard Observer Diagram.

TABLE 1.—Chromaticity coordinates

Color	Chromaticity coordinates	
	x axis	y axis
White.....	0.285	0.323
	.453	.440
	.500	.440
	.500	.382
	.440	.382
	.285	.294
Green.....	.009	.730
	.284	.329
	.207	.367
	.013	.044
Red.....	.665	.335
	.645	.335
	.680	.300
	.700	.300
Yellow.....	.560	.440
	.555	.435
	.612	.382
	.618	.382

§ 149.729 Display of information.

(a) The following information must be displayed on each light:

(1) The manufacturer's name and date of manufacture.

(2) The model designation.

(3) The lamp size in amperes and the minimum voltage needed to operate the light in compliance with the intensity requirements in this subpart.

(b) The following information must be displayed on each rotating lighted beacon:

(1) The information prescribed in paragraph (a) of this section.

(2) The operating speed of the rotating apparatus.

(3) The power required to maintain the operating speed.

OBSTRUCTION LIGHTS

§ 149.751 Number and location on a platform and SPM.

(a) A platform that is 30 feet or less on any side, or in diameter, must have at least one obstruction light.

(b) An SPM must have at least one obstruction light.

(c) A platform that is more than 30 feet but less than 50 feet on any side, or in diameter, must have at least two obstruction lights that are installed as far apart from each other on the platform as possible.

(d) A platform that is more than 50 feet on any one side must have one obstruction light installed on each corner.

(e) A circular platform that has a diameter of more than 50 feet must have at least 4 obstruction lights that are installed as far apart from each other on the platform as possible.

(f) At least one of the obstruction lights on each platform and SPM must be visible from the water regardless of the angle of approach to the structure.

(g) If a platform or SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

(h) Each obstruction light on a platform must be installed at least 20 feet above mean high water.

(i) Each obstruction light on an SPM must be installed at least 10 feet above the water.

§ 149.753 Number and location on a floating hose string.

A floating hose string must have obstruction lights that are—

(a) Installed at equally spaced intervals of not more than 70 feet along the length of the hose string, except that the two sections of hose furthest from the SPM need not have lights; and

(b) Installed all at the same height and at no less than 2 nor more than 5 feet above the surface of the water.

§ 149.755 Characteristics.

(a) Each obstruction light on a platform or SPM must—

(1) Be white; and

(2) Flash 50 to 70 times per minute when operated.

(b) If a platform or SPM has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a hose string must—

(1) Be yellow; and

(2) Flash 50 to 70 times per minute when operated.

§ 149.757 Intensity.

(a) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

(b) Each obstruction light on an SPM must have an effective intensity of at least 15 candela.

(c) Each obstruction light on a hose string must have an effective intensity of at least 1 candela.

§ 149.759 Leveling device.

Each obstruction light installed on a platform must have a device permanently attached to the light that facilitates horizontal leveling of the light in two directions 90 degrees apart.

Buoys

§ 149.773 Characteristics.

Each buoy at a deepwater port must—

(a) Meet the requirements in Subpart 62.25 of this chapter for buoys in United States waters;

(b) Have—

(1) A radar reflector; and

(2) A light installed at least 8 feet above the water.

(c) For each traffic lane, the buoy that is furthest from the safety zone must have a fog signal of a type described in Subpart 62.45 of Part 62 of this chapter.

§ 149.771 Number and location.

Each lateral boundary of a traffic lane at a deepwater port must be marked with buoys that are no more than 5 miles apart.

§ 149.775 Intensity of lights.

(a) Each fixed light on a buoy must have an intensity of at least 75 candela.

(b) Each flashing light on a buoy must

have an effective intensity of at least 75 candela.

MISCELLANEOUS

§ 149.791 Identification of a platform and SPM.

(a) Each platform and SPM must display the name of the port, and the name or number or both, identifying the structure so that the information is visible—

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are—

(1) At least 12 inches high;

(2) In vertical block style; and

(3) Displayed against a contrasting background.

§ 149.793 Markings for piles and pile clusters.

(a) Each pile and pile cluster that is within 100 yards of a platform or SPM must be marked with white or red retro-reflective tape.

(b) Each pile and pile cluster that is more than 100 yards from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

§ 149.795 Radar Beacon.

The tallest platform must have an FCC accepted radar beacon (RACON) that—

(a) Has a frequency range of 9300-9500 MHz; and

(b) Is installed at a height and location where its signal can be received by a vessel within at least 10 miles of the platform.

§ 149.797 Rotating lighted beacon.

The tallest platform must have a rotating lighted beacon that—

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Has a white light;

(d) Has two light beams that are 180° apart;

(e) Is installed at least 60 feet above mean high water;

(f) Operates in wind up to 100 knots at a speed that is within 6% of the operating speed displayed on the beacon; and

(g) Has a device permanently attached to the light that facilitates horizontal leveling of the light in two directions 90 degrees apart.

§ 149.799 Fog signal.

(a) Each PPC must have a Coast Guard approved fog signal that has a 2 mile range.

NOTE: A list of Coast Guard approved fog signals may be obtained from the Commandant.

(b) Each fog signal on a PPC must—

(1) Be installed at least 10 feet but not more than 150 feet above mean high water; and

(2) Be installed where the sound signal is audible in all directions in a horizontal plane at all ranges up to and including a two mile range.

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AUTHORITY: Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-8 (33 U.S.C. 1609 (a), (b))

Subpart A—General

§ 150.101 Applicability.

The rules in this part apply to the operation of each deepwater port.

§ 150.103 Licensee.

No licensee of a deepwater port may cause or authorize operations contrary to the rules in this part. The licensee shall ensure that the port meets the equipment requirements in Part 149 of this subchapter.

§ 150.105 Operations Manual: general.

The licensee of a deepwater port may not operate the port unless the port has an Operations Manual that meets the requirements of this subchapter and the "Guidelines for Preparation of a Deepwater Port Operations Manual."

NOTE: The "Guidelines for Preparation of a Deepwater Port Operations Manual" may be obtained from the Commandant.

§ 150.107 Operations Manual: amendment.

(a) The Captain of the Port may require the licensee to amend the Operations Manual if he finds that the Operations Manual does not meet the requirements of this Subchapter.

(b) When the Captain of the Port determines that an amendment to an Operations Manual is necessary, he notifies the licensee in writing of a date not less than 14 days from the date of the notice, on or before which the licensee must submit written information, views, and arguments on the amendment. After considering all relevant material presented, the Captain of the Port notifies the li-

censee of any amendment required or he rescinds the notice. The amendment becomes effective not less than 30 days after the licensee receives the notice unless the licensee petitions the Commandant to reconsider the amendment, in which case its effective date is stayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing to the Captain of the Port.

(c) If the Captain of the Port finds a situation that requires immediate action to prevent the discharge or risk of discharge of oil or to protect the safety of life and property that makes the procedure in paragraphs (a) and (b) of this section impracticable or contrary to the public interest, he may issue an amendment effective, without stay, on the date the licensee receives notice of it. In such a case, the Captain of the Port includes a brief statement of the reasons for his finding in the notice, and the owner or operator may petition the District Commander, in any manner, to reconsider the amendment.

§ 150.109 Compliance with Operations Manual.

Each licensee shall use and require his personnel to use the procedures in the Operations Manual.

§ 150.111 Operations Manual: changes.

The licensee shall provide a copy of each change to the Operations Manual to the Captain of the Port at least 30 days before implementing the change.

§ 150.113 Deviations.

The Captain of the Port may authorize a deviation by means of a change in the Operations Manual, upon request, if he finds that the proposed alternative procedure, method, or equipment would ensure equivalent protection, safety, or quality level.

§ 150.115 Emergency deviations.

In an emergency, for the protection of life or property, or to avoid danger to the environment, any person may deviate from any requirement of deepwater port regulations. As soon as practicable, the person shall report the nature, extent, and duration of each deviation orally or in writing to the Commandant.

§ 150.117 Notification to the District Commander.

(a) At least 30 days before construction of a pipeline, platform, or SPM at a deepwater port begins, the licensee shall give notice of construction in writing to the District Commander.

(b) On the date construction of a pipeline, platform, or SPM at a deepwater port begins, the licensee shall give notice to the District Commander by telegram of the lights and fog signals in use at the construction site.

(c) On the date that construction of a pipeline, platform, or SPM at a deepwater port is completed, the licensee shall give notice to the District Commander in writing of completion and of each obstruction light and fog signal in use on the completed structure.

(d) When lights used during construction of a platform or SPM at a deepwater port are replaced with obstruction lights required by Part 149 of this subchapter, the licensee shall give notice of replacement in writing to the District Commander.

(e) Upon receipt of an American Bureau of Shipping "Interim Class Certificate" for an SPM at a deepwater port, the licensee shall give notice of receipt in writing to the District Commander.

(f) At least 60 days before the first oil transfer operation begins at a deepwater port, the licensee shall give notice of the operation to the District Commander.

§ 150.119 Notification to the Commandant.

Upon receipt of an American Bureau of Shipping "Classification Certificate" for an SPM at a deepwater port, the licensee shall give notice of receipt in writing to the Commandant.

§ 150.121 ABS Classification.

(a) No licensee may operate an SPM unless he has an American Bureau of Shipping (ABS) "Interim Class Certificate" or a "Classification Certificate" for the SPM.

(b) A certificate must classify the SPM and attached hoses.

(c) The licensee shall maintain in class each SPM having a "Classification Certificate."

§ 150.123 Weather monitoring.

The terminal supervisor shall continuously monitor the wind, wave, current, and visibility conditions at the port.

Subpart B—Personnel

§ 150.201 Applicability.

This subpart prescribes personnel qualifications that apply to each deepwater port.

§ 150.203 General.

No licensee may operate a deepwater port unless he has designated English speaking personnel who meet the requirements of this subpart for the following positions:

- Terminal Supervisor.
- Cargo Transfer Supervisor.
- Cargo Transfer Observer.
- Vessel Traffic Supervisor.
- Mooring Master.
- Assistant Mooring Master.

§ 150.204 Definitions.

As used in this subpart—

- "License" means a Coast Guard license issued under 46 CFR 10; and
- "Licensee" means the licensee of a deepwater port.

§ 150.205 Terminal supervisor.

No person may serve, and the licensee may not use the services of a person, as a terminal supervisor at a deepwater port unless—

- He has enough experience at an oil transfer facility to enable the licensee to determine that he is capable of managing the deepwater port;
- The licensee determines that he knows—

- (1) The hazards of each product to be transferred; and
- (2) The port operating procedures described in the Operations Manual; and
- (c) The licensee designates that person as terminal supervisor and advises the Captain of the Port in writing of that designation.

§ 150.207 Cargo transfer supervisor.

No person may serve, and the licensee may not use the services of a person, as a cargo transfer supervisor at a deepwater port unless—

- (a) He has enough experience in a operating oil transfer equipment to enable the licensee to determine that he is capable of operating the oil transfer equipment of the deepwater port;
- (b) He holds a license as chief mate of ocean steam or motor vessels, or as master of a vessel, and has at least one year of experience as a licensed chief mate or master on board a tank vessel;
- (c) The licensee determines that he knows—

- (1) The rules in Subpart D of this part;
- (2) The oil transfer procedures and transfer control systems, in general, of tankers serviced at the facility;
- (3) The special handling characteristics of each product to be transferred; and
- (4) The procedures described in the Operations Manual for—
 - (i) Oil transfer;
 - (ii) Spill prevention, containment, and cleanup;
 - (iii) Accidents and emergencies; and
 - (iv) Voice communication; and
- (d) The licensee designates that person as cargo transfer supervisor and advises the Captain of the Port in writing of that designation.

§ 150.209 Vessel traffic supervisor.

No person may serve, and the licensee may not use the services of a person, as a vessel traffic supervisor at a deepwater port unless—

- (a) He holds a certificate as a radar observer (no limitation as to operation) issued under 46 CFR 10.30-5(c)(1) and has at least 6 months experience as a licensed deck officer on a vessel that has radar;
- (b) The licensee determines that he knows—

- (1) The procedures for utilizing the port's radar equipment; and
- (2) The procedures described in the Operations Manual for—
 - (i) Vessel control; and
 - (ii) Voice communications; and
- (c) The licensee designates that person as vessel traffic supervisor and advises the Captain of the Port in writing of that designation.

§ 150.211 Mooring master.

No person may serve, and the licensee may not use the services of a person, as a mooring master at a deepwater port unless—

- (a) He holds a—

(1) License as master of ocean steam or motor vessels, unlimited tonnage, with a Mooring Master's endorsement for the facility; or

(2) Limited master's license authorizing service on the waters on which the facility is located and with—

(i) First class pilot of steam or motor vessel, unlimited tonnage, endorsement; and

(ii) Endorsement as mooring master for the facility;

(b) The licensee determines that he knows the procedures described in the Operations Manual for—

- (1) Vessel control;
- (2) Vessel responsibilities;
- (3) Spill prevention, containment, and cleanup;

(c) The licensee determines that he knows—

- (1) Accidents and emergencies; and
- (2) Voice communications; and
- (c) The licensee designates that person as mooring master and advises the Captain of the Port in writing of that designation.

§ 150.213 Cargo Transfer Observer.

No person may serve, and the licensee may not use the services of a person, as a cargo transfer observer at a deepwater port unless—

(a) He has the knowledge and experience necessary to operate the oil transfer equipment of a tanker;

(b) He is certificated as a tankerman under 46 CFR 12.20;

(c) The licensee determines that he knows—

- (1) The rules in Subpart D of this part;
- (2) The oil transfer procedures and transfer control systems, in general, of tankers serviced at the port;
- (3) The special handling characteristics of each product to be transferred;
- (4) The procedures described in the Operations Manual for—
 - (i) Oil transfer;
 - (ii) Spill prevention, containment, and cleanup;
 - (iii) Accidents and emergencies; and
 - (iv) Voice communication; and
- (d) The licensee designates that person as cargo transfer observer and retains written evidence of that designation at the deepwater port.

§ 150.215 Assistant Mooring Master.

No person may serve, and the licensee may not use the services of a person, as an assistant mooring master at a deepwater port unless—

(a) He holds a license as deck officer on ocean steam or motor vessels, unlimited tonnage;

(b) The licensee determines that he knows the procedures described in the Operations Manual for—

- (1) Vessel control;
- (2) Spill prevention, containment, and cleanup;

(c) Accidents and emergencies; and

(d) Voice communications; and

(c) The licensee designates that a person as assistant mooring master and retains evidence of that designation at the deepwater port.

§ 150.217 Limitation on Service.

No person may serve in more than one of the following positions at the same time:

- (a) Terminal Supervisor.
- (b) Cargo Transfer Supervisor.
- (c) Cargo Transfer Observer.
- (d) Vessel Traffic Supervisor.
- (e) Mooring Master.
- (f) Assistant Mooring Master.

Subpart C—Vessel Navigation

§ 150.301 Applicability.

This subpart prescribes rules that apply to the navigation of tankers at a deepwater port.

§ 150.303 Definitions.¹

As used in this subpart—

(a) "Tanker" means a vessel that enters a deepwater port to unload or off-load oil at an SPM;

(b) "Traffic separation scheme" (TSS) means the network of traffic lanes and separation zones or lines at a deepwater port;

(c) "Separation zone or line" means a zone or line in the TSS located between two traffic lanes to keep tankers proceeding in opposite directions a safe distance apart;

(d) "Traffic lane" means an area of the TSS in which all tankers ordinarily proceed in the same direction.

§ 150.305 Traffic separation scheme.

No licensee may operate a deepwater port unless the port has a TSS that conforms to Part 1 of the recommendations of the Intergovernmental Maritime Consultative Organization contained in Annex I to IMCO Assembly Resolution A.284 (VIII) of November 20, 1973.

NOTE: A copy of Annex I may be obtained from the Commandant.

§ 150.307 Radar Surveillance.

The vessel traffic supervisor shall maintain radar surveillance of the TSS and safety zone—

(a) Whenever a tanker is proceeding to a traffic lane after submitting the report required in § 150.335 of this subpart; and,

(b) Whenever a tanker is in the TSS or safety zone.

§ 150.309 Advisories to vessels.

(a) The vessel traffic supervisor shall advise the master of each tanker underway in the TSS or safety zone of its position and track at 10 minute intervals.

(b) Whenever the vessel traffic supervisor determines that a vessel may potentially interfere with the movement of a tanker in the TSS or safety zone, he

¹Section 3(16) of the Act provides that "safety zone" means the safety zone established around a deepwater port as determined . . . in accordance with section 10(d) of this Act." Section 10(d) further provides that a safety zone is established for the purpose of navigational safety and is to be of an appropriate size that accomplishes this purpose. The Commandant designates the safety zone at each deepwater port.

shall advise the master of the tanker of the following information and shall update the information at times he considers necessary to assist the tanker in navigation of the TSS and safety zone:

- (1) Position and track of the vessel.
- (2) The vessel's speed over the ground.
- (3) The closest point of approach of the vessel to the tanker.

(c) Whenever a tanker enters a traffic lane inbound to the safety zone, the vessel traffic supervisor shall advise the tanker of the position of each other vessel moored, anchored, or underway in the TSS or safety zone.

§ 150.311 Radio listening watch.

Whenever a tanker is in the TSS or safety zone, the vessel traffic supervisor shall continuously monitor the radio frequency designated in the Operations Manual for use by vessels underway at the port except when transmitting on that frequency.

§ 150.313 Clearances.

(a) The vessel traffic supervisor may not clear a tanker to enter a traffic lane unless—

- (1) Each other tanker in the traffic lane is at least 5 miles from the entrance to the traffic lane; and
- (2) A mooring master is on board.

(b) The vessel traffic supervisor may not clear a tanker to moor at an SPM unless—

- (1) There is an SPM berth available and he has assigned that berth to the tanker;
- (2) The visibility in the safety zone is at least 2 miles; and
- (3) The minimum operating conditions prescribed in the Operations Manual for mooring to an SPM have not been exceeded.

(c) The vessel traffic supervisor may not clear a vessel to depart an SPM unless the visibility is at least 2 miles and a mooring master is on board.

§ 150.331 Master of a tanker.

The master of a tanker in the TSS or safety zone shall operate the vessel in accordance with the rules in §§ 150.333-150.343 of this subpart.

§ 150.333 Advance Notice of Arrival.

(a) The master of a tanker bound for a deepwater port shall report the following information to the Captain of the Port and the vessel traffic supervisor of the port at least 24 hours before entering the safety zone at the port:

- (1) The name, gross tonnage, and draft of the tanker.
- (2) The type and amount of cargo on board.

(3) Any condition on the vessel that may impair its navigation such as fire, defective propulsion machinery, or defective steering equipment.

(4) Any leaks, structural damage, or machinery defects that may impair cargo transfer operations or cause a discharge of oil.

(b) If the information reported in paragraph (a) (3) or (a) (4) of this section changes at any time before entering the safety zone, or while the tanker is

in the safety zone, the master of the tanker shall report the changes to the Captain of the Port and vessel traffic supervisor as soon as possible.

§ 150.335 Report before entering inbound traffic lane.

The master of a tanker bound for a deepwater port shall notify the vessel traffic supervisor of the port when the tanker is 20 miles from the entrance of an inbound traffic lane.

§ 150.337 Vessel clearance.

No tanker may enter a traffic lane, or moor at or depart from an SPM, unless it has obtained clearance to do so from the vessel traffic supervisor.

§ 150.339 Navigation in the TSS and safety zone.

(a) No tanker may enter a traffic lane except at the entrance to the lane.

(b) A tanker proceeding in a traffic lane shall keep the separation zone or line to port.

(c) No tanker may enter or depart a safety zone except via a traffic lane.

(d) No tanker may anchor in the TSS or safety zone, except in an anchorage area.

(e) A tanker in a traffic lane shall keep at least 5 miles behind any other tanker ahead of him in the traffic lane.

(f) No tanker may operate in any area of the TSS or safety zone in which the net under keel clearance of the tanker is less than 5 feet. As used in this paragraph, "Net under keel clearance" means that distance between the ocean bottom and the portion of a tanker's hull closest to the ocean bottom when the tanker is underway or is moored or anchored in other than calm water.

§ 150.341 Mooring Master.

No tanker may be underway in the TSS or safety zone unless a mooring master is on board.

§ 150.343 Radio listening watch.

The master of a tanker in the TSS or safety zone shall continuously monitor the radio frequency designated in the Operations Manual of the port for use by vessels underway at the port except when transmitting on that frequency.

Subpart D—Oil Transfer Operations

§ 150.400 Applicability.

This subpart prescribes rules that apply to the transfer of oil at a deepwater port.

§ 150.403 Definitions.

As used in this subpart—

(a) "Single Point Mooring" (SPM) means an offshore berth which provides a link between the undersea pipeline and a moored vessel for the transfer of oil and to which the vessel can be secured and can weathervane during the oil transfer as dictated by the environment (wind, current, tides, etc.);

(b) "PLEM" means pipeline end manifold at the SPM;

(c) "OTS" means an oil transfer system of a deepwater port and includes the SPM-OTS and the undersea pipeline

running from the end of the hose string that connects to the manifold on the vessel to the onshore terminal;

(d) "SPM-OTS" means that portion of an OTS from the PLEM to the end of hose string that connects to the manifold on the vessel; and

(e) "Hose string" (both floating and float/sink type) means that portion of an SPM-OTS consisting of flexible hose which connects the vessel's manifold to the SPM.

§ 150.405 Periodic tests and inspections: OTS components.

No person may transfer oil through an OTS at a deepwater port unless—

(a) The SPM-OTS of the OTS has been tested and inspected as required for maintenance of class in accordance with the Rules for Building and Classing Single Point Moorings published by the American Bureau of Shipping;

(b) Each oil transfer hose in the SPM-OTS of the OTS in which the working pressure recommended by the manufacturer has been exceeded, except when exceeded for testing required by this section, has, since the pressure was exceeded, been—

- (1) removed;
- (2) hydrostatically tested to 1.5 times its maximum working pressure; and
- (3) visually examined externally and internally for evidence of leakage, loose covers, kinks, bulges, soft spots, and gouges, cuts, or slashes that penetrate the hose reinforcement;

(c) Within the 23 months immediately preceding the month during which oil transfer operations are to be conducted, each submarine hose in the SPM-OTS of the OTS has been removed from the ends of each submarine coupling, surfaced, and subjected to external and internal visual examinations for evidence of flaws as described in paragraph (b) (3) of this section and hydrostatically tested to 1.5 times its maximum working pressure; and

(d) Each submarine hose in the SPM-OTS of that OTS has been visually examined externally for evidence of flaws as described in paragraph (b) (3) of this section since the last storm at the deepwater port requiring shutdown of oil transfer operations.

§ 150.407 Periodic tests and inspections: discharge containment equipment.

No person may transfer oil at a deepwater port unless the discharge containment equipment required by § 149.319 of this subchapter is tested and inspected as follows:

(a) Within the five months immediately preceding the month during which the oil transfer operation is conducted at a deepwater port, a visual examination must have been performed to determine whether there existed any conditions which might impair the effectiveness of the equipment in performing its intended function. This visual examination must have included the condition of such items as fabric and fabric coatings, seams and bonding points, metal hardware parts, shackles, fittings, towing and

other lines, cables, flotation devices, inflation mechanisms, and any other components integral to the equipment.

(b) Within the 11 months immediately preceding the month during which the oil transfer operation is conducted at a deepwater port, representative pieces or sections of the containment equipment must have been deployed under simulated discharge conditions and the integrity of equipment strength members, containment skirt, flotation devices, and any other design performance factors of the equipment assessed. Deployment under actual discharge conditions within the time period specified in this subparagraph will satisfy this requirement.

§ 150.409 Periodic tests and inspections: removal material and equipment.

No persons may transfer oil at a deepwater port unless the removal material and equipment required by § 149.319 of this subchapter is tested and inspected as follows:

(a) Within the two months immediately preceding the month during which oil transfer operations are to be conducted at a deepwater port, any machinery, pumps, hydraulic parts, and other operating features of removal equipment must have been visually examined and operated in accordance with the instructions of the manufacturer for evidence of need or maintenance or repair.

(b) Within the 11 months immediately preceding the month during which oil transfer operations are to be conducted at a deepwater port the removal equipment must have been tested in conjunction with the containment equipment deployment required by § 150.407 of this subpart for evidence of need of maintenance or repair.

§ 150.411 Repair or replacement of equipment.

(a) Whenever a component of an OTS at a deepwater port is found to be inoperative or otherwise defective, the licensee shall replace or repair the component before further oil transfer operations are undertaken using the OTS.

(b) Whenever an item of discharge containment and removal material or equipment required by § 149.319 of this subchapter is found to be inoperative or otherwise defective, the licensee shall replace or repair the component before further oil transfer operations are undertaken.

§ 150.413 Requirements for oil transfer.

No person may transfer oil through an OTS unless—

(a) Before connecting the hose string to the vessel manifold at the start of each oil transfer operation, it is determined by visual examination that the hose string in use for that transfer operation has no leakage, loose covers, kinks, bulges, soft spots, and no gouges, cuts, or slashes that penetrate the hose reinforcement;

(b) During each oil transfer operation, it is determined by visual examination that the hose string in use for that transfer operation has no leakage;

(c) The vessel's mooring attachment to the SPM is strong enough to hold in all expected conditions of surge, current, and weather;

(d) Oil transfer hoses are long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses;

(e) Each oil transfer hose is supported in a manner that prevents strain on its coupling;

(f) Each part of the OTS necessary to allow the flow of oil is lined up for the transfer;

(g) Each part of the OTS not necessary for the transfer operation is securely blanked or shut off;

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems is sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS meets the requirements of § 150.415 of this subpart;

(j) The discharge containment and removal material and equipment required by § 149.391 of this subchapter is in place;

(k) Each scupper and overboard drain on the vessel is closed and the drain from the drip pan under the vessel manifold leading to the tank is open;

(l) Any continuing loss of oil from the coupling at the vessel manifold does not overflow the drip pan under the manifold;

(m) The communications equipment required by § 149.319 of this subchapter is operative for the transfer operation;

(n) The emergency means of shutdown required by Part 149 of this subchapter is in position and operative;

(o) The cargo transfer supervisor, cargo transfer observer, and any other designated personnel are on duty and present to conduct the transfer operations in accordance with the Operations Manual and with the oil transfer procedures that apply to the vessel during the transfer operation;

(p) The vessel's officer in charge of cargo transfer and the cargo transfer observer have held a conference and each understands the following details of the transfer operations:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) Particulars of the transferring and receiving systems.

(6) Critical stages of the transfer operation.

(7) Federal regulations that apply to the transfer of oil.

(8) Emergency procedures.

(9) Discharge containment procedures.

(10) Discharge reporting procedures.

(11) Watch or shift arrangement.

(12) Transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfer and the cargo transfer observer agree to begin the transfer operation;

(r) Between sunset and sunrise the lighting required by Part 149 of this subchapter is provided;

(s) Flame screens are structurally sound and locked in place in all cargo tank vents and ullage holes on the vessel; and

(t) The declaration of inspection required by § 150.417 of this subpart is executed.

§ 150.415 Requirements for connections.

Each temporary connection between the hose string and a vessel manifold must—

(a) Have suitable materials in joints and couplings to make a tight seal;

(b) If using an American National Standards Institute (ANSI) standard flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts;

(c) If using other than an ANSI standard flange coupling, have a bolt in each hole of the coupling; and

(d) Have bolts in each bolted coupling that are all—

(1) The same size;

(2) Tightened so as to uniformly distribute the load around the coupling; and

(3) Free of any signs of strain, elongation, or deterioration.

§ 150.417 Declaration of inspection.

(a) No person may transfer oil at a deepwater port unless a declaration of inspection has been executed before the start of each oil transfer operation by the cargo transfer observer and the vessel's officer in charge of cargo transfer.

(b) The declaration of inspection required by paragraph (a) of this section may be in any form but must contain—

(1) The name of the tanker and berth to which moored;

(2) The date the oil transfer operation will start;

(3) Certification by the cargo transfer observer and the vessel's officer in charge of cargo transfer that the requirements for oil transfer specified in § 150.413 of this subpart, and the pre-transfer procedures described in the Operations Manual, have been followed; and

(4) The signatures of the cargo transfer observer and the vessel's officer in charge of cargo transfer.

§ 150.419 Stopping transfer operations.

Before stopping the flow of oil during an oil transfer operation at a deepwater port the cargo transfer supervisor shall advise the vessel's officer in charge of oil transfer of the intent to do so.

§ 150.421 Displacement of oil in an SPM-OTS with water.

The Terminal Supervisor shall displace the oil in an SPM-OTS with water and close the valve at the FLEM whenever—

(a) A vessel is about to depart the SPM and a storm warning has been re-

ceived forecasting weather conditions to occur after the vessel's departure that will exceed the design operating criteria listed in the Operations Manual for the SPM-OTS; or

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) A vessel is about to depart the SPM and the SPM is not scheduled for use in an oil transfer operation within the next 48 hours.

§ 150.423 Limitations.

(a) No person may transfer oil at a deepwater port—

(1) Unless a terminal supervisor is on duty at the port;

(2) During a severe electrical storm in the vicinity of the deepwater port;

(3) During a fire at the deepwater port, receiving terminal on shore, or aboard a vessel berthed at the deepwater port;

(4) Unless there are enough available personnel and equipment at the port to contain and remove a discharge of 10,000 U.S. gallons of oil into the water;

(5) By lighterage unless otherwise authorized by the Captain of the Port; and

(6) Unless the weather conditions at the port meet the operating conditions prescribed in the Operations Manual for transferring oil at the port.

(b) No person may connect or disconnect a hose string unless he is certificated as a tankerman under 46 CFR 12.20.

Subpart E—Operations

§ 150.500 Applicability.

The rules in this subpart apply to operations on each PPC at a deepwater port.

§ 150.503 Maintenance of equipment.

(a) The licensee shall maintain each item of equipment required under this subchapter in operative condition or shall replace it with an item in good condition.

(b) The licensee shall maintain each excess item of equipment required under this subchapter in operative condition, or shall remove it from service.

§ 150.504 Fire main system.

The licensee may use the fire main system only for firefighting and deckwashing.

§ 150.505 Fire pump.

The licensee shall keep at least one of the fire pumps required by this subchapter ready for use on the fire main system at all times.

§ 150.507 Firehose: connection and stowage.

(a) Except as otherwise provided in paragraph (c) of this section, the licensee shall keep at least one length of firehose with a combination nozzle connected to each fire hydrant at all times.

(b) The licensee shall stow each firehose connected to a fire hydrant on a hose rack when not in use.

(c) A firehose in an exposed location may temporarily be removed from an ex-

posed location to protect the firehose from damage during heavy weather.

§ 150.508 Stowage of life saving equipment.

(a) The licensee shall ensure that each inflatable liferaft required by this § 149.521 of this subchapter is stowed as near as practicable to launching equipment for the liferaft.

(b) The licensee shall ensure that each life preserver required by § 149.529 of this subchapter is stowed next to a lifeboat, inflatable liferaft, or means of escape in lockers, boxes, or closets that cannot be locked and that are plainly marked.

§ 150.508a Replacement of distress signals.

The licensee shall ensure that each distress signal required by § 149.528 is replaced no later than three years after the date of its manufacture.

§ 150.508b Lifeboat launching equipment test.

The licensee shall ensure that lifeboat launching equipment required by § 149.524 of this subchapter is tested immediately after installation in accordance with 46 CFR 94.35-5.

§ 150.509 Use of Personal Protection Equipment.

(a) When any person is in a work area, the licensee shall ensure that such person wears:

(1) Safety shoes that meet the specifications prescribed by the American National Standard Institute (ANSI) Requirements for Men's Safety-toe Footwear, Z41.1(1967).

(2) Protective hats that meet the specifications prescribed by the ANSI Safety Requirements for Industrial Head Protection, Z89.1(1969).

(b) When an eye hazard from flying particles or heavy dust exists, the licensee shall ensure that each person in the area of the hazard is wearing eye protection equipment that meets the specifications prescribed by the ANSI Practice for Occupational and Educational Eye and Face Protection, Z87.1(1968).

(c) When hazardous work is being performed, the licensee shall ensure that any person who wears corrective eye glasses wear eye protection equipment that can be worn over eye glasses, or prescription ground safety lenses that meet the specifications prescribed by the ANSI Practice for Occupational and Educational Eye and Face Protection, Z87.1(1968). If these lenses provide protection against the hazard involved.

(d) When any person is exposed to combinations of sound levels and durations exceeding those listed in Table 150.509 of this part, the licensee shall ensure that such person is wearing ear protection equipment that reduces sound levels to the prescribed levels.

(e) When any person is working near the water, the licensee shall ensure that such person wears a unicultural plastic foam work vest that meets the requirements of 46 CFR 160.053.

TABLE 150.509.—Maximum permissible noise exposures¹

Duration per day, hours:	Sound level ² dBA slow response
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
¾	108
½	110
¼	115

¹ When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect must be considered rather than the individual effect of each. If the sum of the fractions

$(\frac{C_1}{T_1} + \frac{C_2}{T_2} + \dots + \frac{C_n}{T_n})$ is more than one, then, the mixed

exposure exceeds the limit value. (C_n) is the total time of exposure at a specified noise level. (T_n) is the total time of exposure permitted at that level.

² Exposure to impulsive or impact noise should not exceed 140 dBA peak sound pressure level.

³ Measured on the A scale of a standard sound level meter at slow response.

§ 150.511 Maintenance of personal protection equipment.

(a) The licensee shall clean and disinfect eye protection equipment that has been used before it is reissued.

(b) The licensee shall clean and disinfect protective hats that have been worn before they are reissued.

§ 150.513 Sanitation.

The licensee shall ensure that garbage is covered and that no person is working in the vicinity of uncovered garbage or of overboard discharges from sanitary lines that are not protected by a baffle or splash boards.

§ 150.515 Refueling for aircraft.

If the PPC is not equipped with a permanent fueling facility for aircraft, no person may fuel or cause or authorize the fueling of aircraft unless he has received the permission of the Captain of the Port.

§ 150.517 Station bill.

(a) The licensee shall post copies of a station bill on each PPC.

(b) The licensee shall designate in writing on the station bill, by title and in order of succession, each person on the PPC who is a person in charge of the PPC for purposes of supervision in an emergency.

(c) The station bill must set forth—

(1) The special duties and duty stations of each person, by name, on the PPC for each emergency listed in the Operations Manual that involves the use or application of equipment required by Part 149 of this subchapter; and

(2) The signals for calling persons to their emergency stations and for abandoning the PPC.

§ 150.519 Emergency drills.

The licensee shall conduct each emergency drill specified in the Operations Manual at least once each month.

§ 150.521 Housekeeping.

(a) The licensee shall keep walking and working areas clear of all loose hazards that could cause tripping or stumbling.

(b) The licensee shall store portable equipment when not in use.

(c) The licensee shall eliminate slippery conditions on the platform as they occur.

(d) No person may suspend a portable light by its cord unless the means of attachment of the cord to the light prevents the light from being suspended by the electrical connections.

(e) The licensee shall keep each area near a lifeboat, inflatable liferaft, or means of escape described in §§ 149.421 and 149.423 of this subchapter clear of obstructions that would interfere with immediate use of the lifeboat, liferaft, or means of escape.

§ 150.523 Illumination.

(a) The licensee shall illuminate each walking and working area.

(b) No person may enter any dark place without a flashlight or other suitable portable light.

(c) No person may use matches or open flame lights as illumination.

§ 150.525 Emergency medical technician.

The licensee shall ensure that at least one person who holds a certificate of completion from a state, or from the National Registry of Emergency Medical Technicians, of the Department of Transportation-National Highway Traffic Safety Administration Basic Training Course (81 hours) for emergency medical technicians is on each PPC at all times.

§ 150.527 First aid station.

A first aid station may not be used for any purpose that prevents its immediate use as a first aid station.

Subpart F—Aids to Navigation at Deepwater Ports

§ 150.601 Applicability.

The rules in this subpart apply to the operation of aids to navigation at a deepwater port.

§ 150.603 Applicability of other regulations.

Section 66.01-20 of this chapter also applies to aids to navigation at a deepwater port.

§ 150.605 Voltage.

The licensee shall maintain the voltage of each light at or above the operating voltage listed on the light.

§ 150.607 Lights.

(a) The licensee shall operate each light from thirty minutes before sunset until thirty minutes after sunrise.

(b) During construction of a platform or SPM, the licensee shall mark the structure with at least one of the following:

(1) The obstruction lights required in Part 149 of this subchapter for the structure;

(2) The fixed lights of a vessel attending the structure; or

(3) General illumination lights on the structure that meet or exceed the intensity requirements for the obstruction lights required in Part 149 of this subchapter for the structure.

(c) The licensee shall ensure that the focal plane of each platform obstruction light when operated, and of the rotating lighted beacon when operated, is always coincident with the horizontal plane passing through the light source.

§ 150.611 Fog Signals.

(a) The licensee shall operate the fog signal on each PPC whenever the visibility in any horizontal direction from the structure is less than 5 miles.

(b) During construction of a platform, compliance with paragraph (a) of this section is not required if the PPC is attended by a vessel moored alongside the platform and the vessel sounds a 2 second whistle blast every 20 seconds whenever the visibility in any horizontal direction from the vessel is less than 5 miles.

Subpart G—Reports and Records

§ 150.701 Applicability.

This subpart applies to the reports required by the Coast Guard to be submitted by the licensee of a deepwater port, and to the records and other information required by the Coast Guard to be maintained by the licensee.

§ 150.702 Definition.

For the purposes of this part, "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

REPORTS

§ 150.703 Maintenance of ABS Classification.

Whenever the licensee submits a report to the American Bureau of Shipping (ABS) that is required for maintenance of SPM class in accordance with ABS Rules for Building and Classing Single Point Moorings, he shall submit a copy of the report to the Commandant U.S. Coast Guard.

§ 150.705 Report of Discrepancy to Navigational Aid.

The licensee shall submit to the District Commander a report of any discrepancy affecting the proper operation or characteristics of any navigational aid at the deepwater port. The report must be submitted promptly, by the fastest means of communication available, upon determination that a discrepancy exists which cannot be corrected within twelve hours. The report must include—

- (a) Name or designation of aid;
 - (b) Location of aid;
 - (c) Nature of discrepancy; and
 - (d) Estimated time of correction.
- Correction of the discrepancy must also be reported promptly.

§ 150.707 Report of Oil Throughput; Payment to Deepwater Port Liability Fund.

The licensee shall submit to the District Commander a report of oil cargo throughput of the deepwater port. The report must be submitted on a quarterly basis, beginning on the first day of the calendar quarter immediately following the commencement of oil transfer opera-

tions at the port, and must contain the following information—

(a) Oil cargo throughput during previous calendar quarter measured in barrels; and

(b) Calculated payment to the Deepwater Port Liability Fund as required by § 18(f)(3) of the Act. The payment must be enclosed unless the District Commander advises the licensee that collections have been suspended.

§ 150.709 Notice of the Discharge of Oil.

(a) The purpose of this section is to prescribe the manner in which the notice required in § 18(b) of the Act is to be given and to list the government officials to receive that notice.

(b) Any master or person in charge of a vessel in a safety zone, and a deepwater port licensee, shall, when reporting knowledge of a discharge of oil in compliance with § 18(b) of the Act, immediately notify by telephone, radio telecommunication, or a similar means of rapid communication, one of the following persons listed in order of priority:

(1) Duty Officer, National Response Center, U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590; toll free telephone number 800-424-8802 except for discharges in waters adjacent to Alaska and Hawaii.

(2) Commanding Officer or Officer-in-Charge of any Coast Guard unit in the vicinity of the discharge.

(3) The government official pre-designated in the applicable Regional Contingency Plan as the On-Scene Coordinator for the geographic area in which the discharge occurs. Regional Contingency Plans are available at Coast Guard District Offices and Environmental Protection Agency (EPA) Regional Offices, as listed in 33 CFR 153.105.

(4) Commander of the Coast Guard district in which the discharge occurs. States and their corresponding Coast Guard districts are listed in 33 CFR 153.105.

(5) Regional Administrator of the Environmental Protection Agency for the region in which the discharge occurs. States and their corresponding EPA regions are listed in 33 CFR 153.105.

§ 150.711 Casualty or Accident Report.

(a) The licensee shall submit to the Officer-in-Charge, Marine Inspection, having jurisdiction, a report of casualty or accident whenever any of the following occur:

(1) Any component of the deepwater port is hit by a vessel and damage to property is in excess of \$1,500.

(2) Damage to the deepwater port in excess of \$25,000.

(3) Material damage affecting the usefulness of lifesaving or firefighting equipment.

(4) Loss of life.

(5) Injury causing any person to remain incapacitated for more than 72 hours, arising from or directly connected with the use or employment of any emergency equipment described in Part 149 of this subchapter.

(b) The written report, in narrative form, must contain the following information—

(1) Name, number, or other designation of the deepwater port;

(2) Names and addresses of the owner, his agent (if any), operator (if any), and the person in charge;

(3) Nature and probable cause of the casualty or accident;

(4) Date and time the casualty or accident occurred, if known, otherwise approximately when it occurred;

(5) Details of damage incurred, especially with respect to lifesaving and firefighting equipment;

(6) Nature and extent of injury to any person;

(7) Names and addresses of persons involved; and

(8) Other comments, especially with respect to use or need for emergency equipment.

(c) In the investigations of casualties and accidents occurring at deepwater ports, the procedures in 46 CFR 136 for marine casualties apply, as far as practicable.

§ 150.713 Report of Sabotage or Subversive Activity.

The licensee shall submit to the Captain of the Port, having jurisdiction, a report of sabotage or subversive activity involving or endangering any vessel at the deepwater port, or the deepwater port. The report must be submitted by the fastest possible means of communication immediately upon discovery of evidence of sabotage or subversive activity; written confirmation must follow.

RECORDS

§ 150.751 General.

(a) The licensee shall maintain copies of all reports, records, test and inspection results, and operating data required by these rules in a manner suitable for Coast Guard inspection at the deepwater port or an adjacent onshore facility.

(b) Except as specified in §§ 150.753-150.759 of this subpart, these copies must be maintained for three years.

§ 150.753 Key Personnel; designations and qualifications.

The licensee shall retain documentation of the designation and qualifications of key terminal personnel for the duration of each individual's employment at the port. Such documentation must include—

(a) Designation required by Subpart B of this part; and

(b) Qualifications of personnel required by Subpart B of this part.

§ 150.755 Port Inspection Records.

(a) Machinery Record. The licensee shall maintain a record of all machinery, both fixed and portable, such as generators, cargo pumps, firepumps, and discharge containment and removal systems. This record must contain, for each piece of machinery, the—

(1) Nameplate and general descriptive data;

(2) Serial number;

(3) Location and purpose; and

(4) Record of tests and inspections.

(b) Emergency Equipment Record. The licensee shall maintain a record of all firefighting, lifesaving, and other emergency equipment, such as fire hoses, nozzles, applicators, fire extinguishers, life rafts, life preservers, and alarm systems. This record must contain, for each piece of emergency equipment—

(1) Nameplate (if any) and general descriptive data;

(2) Serial number (if any);

(3) Location and purpose; and

(4) Record of tests and inspections.

(c) Record of Emergency Drills. The licensee shall retain for one year a record of each monthly emergency drill conducted under § 150.519 of this part, containing the date, time, and signature of the person in charge at the time of the drill.

(d) Record of Port Inspections. The licensee shall retain for three years a record of each test and inspection performed by port personnel. The record must include the date and results of the test or inspection and the signature of the person conducting the test or inspection. These tests and inspections include, but are not limited to, those required in Subpart D of this part for oil transfer systems, discharge containment equipment, and discharge removal material and equipment, and those required for maintenance of ABS Classification, as specified in the Rules for Building and Classing Single Point Moorings published by the American Bureau of Shipping.

§ 150.757 Oil Throughput Log.

The licensee shall maintain an Oil Throughput Log, from which the Report of Oil Throughput required by § 150.707 of this subpart is prepared. Records in this log must be retained for three years, and must specify for each oil transfer operation—

(a) Vessel name, nationality, owner, and date of arrival;

(b) Country of origin of crude oil; and

(c) Total quantity of oil transferred in barrels.

§ 150.759 Declaration of Inspection.

The licensee shall retain signed copies of the Declaration of Inspection forms required by § 150.417 for one month from date of signature.

(Secs. 5(a), 5(b), 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2131, 2137, 2138)

Dated: May 2, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Environment and Systems.

Approved:

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.75-11971 Filed 5-6-75; 8:45 am]

federal register

WEDNESDAY, MAY 7, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 89

PART III



DEPARTMENT OF LABOR

**Office of the Assistant Secretary
for Labor-Management
Relations**

■

LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

**Rules and Regulations of the
Assistant Secretary**

Title 29—Labor

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS, DEPARTMENT OF LABOR
LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

On March 13, 1975, notice of proposed rulemaking was published in the *FEDERAL REGISTER* (40 FR 11750) with regard to amending Chapter II of Title 29 of the Code of Federal Regulations prescribing substance and procedures relating to representational matters, unfair labor practices, and standards of conduct for labor organizations, and adopting procedures to be followed where a determination by the Assistant Secretary is sought with respect to questions as to the grievability and/or arbitrability of grievances under existing negotiated agreements. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

As a result of the comments submitted, changes in these important particulars have been made. Certain proposals concerning consolidation of units have been modified. A petition for an election to consolidate existing exclusively recognized units must be supported by thirty (30%) percent or more of the employees in the proposed consolidated unit. This percentage has been raised from the ten (10%) percent originally proposed, to provide a more reasonable basis for holding an election. *Section 202.2(h) (4) and (7)*. The periods for posting of a notice to employees with respect to a proceeding to consolidate units, and within which a petition for an election may be filed, have been changed from 20 days to 10 days in order to expedite the process. *Section 202.2(h) (4) and (5)*. Moreover, experience in initial representation proceedings has shown that a 10 day period for posting a notice, and within which a response to the notice may be filed, is sufficient.

In order to permit an Assistant Regional Director to act on his report and findings with respect to a petition to consolidate units in the absence of a request for review, he is now authorized to take appropriate action. *Section 202.2(h) (6)*. A proviso has been added to make clear that by mutual agreement of the parties, existing agreements may be modified after issuance of a certification of consolidation. This language was added to allow the parties to retain flexibility in dealing with the newly consolidated units. *Section 202.2(h) (8)*. Also, language has been added to make clear that the results of a consolidation election will be determined by a majority of the ballots cast in the proposed unit. This is in conformance with procedures followed in determining the results of all representation elections. *Section 202.17(c)*.

After consideration of all relevant matter presented, and pursuant to sections 6(d) and 18(d) of Executive Order 11616 (36 FR 17319), I have decided to adopt the proposed regulations with certain changes.

Further I find it beneficial to republish the chapter in full in order that many

additional changes not required to be published for notice and comment may be made.

Due to reorganization the titles of certain officials have been changed. This revision uses the correct titles. Many editorial and clarifying changes which do not affect the substance of the document, and some renumbering of sections have been made. Provisions requiring purchase of transcripts from reporters have been modified to provide that except where prohibited by contractual arrangements entered into before January 5, 1973, transcripts may be purchased from this Department for the actual cost of duplication as required by section 11(a) of the Federal Advisory Committee Act, 5 U.S.C. App. and 29 CFR 70.62. *Sections 202.9(a), 203.11(b), and 204.85*. As the changes made in sections of the chapter which were not published for comment are of a type which do not require such publication, this entire chapter is republished at this time.

The provisions of Executive Order 11838 which amended Executive Order 11491, become effective on May 7, 1975. The need to provide the benefits of these amendments to affected labor organizations, agencies and parties is cause to make the effective date of these regulations coincide with the effective date of the amendments. I hereby find the above reason to be good cause to make these regulations effective May 7, 1975.

In page 41934 of the *FEDERAL REGISTER* of December 3, 1974, there was published a notice of proposed amendments which would revoke §§ 204.3 through 204.25 and insert a new § 204.3. The amendment was proposed to achieve standardization, to reduce the number of forms by abolishing the G forms and to provide more meaningful data by requiring that labor organizations subject to Executive Order 11491, as amended by Executive Order 11616, shall file the same reports and on the same forms as required for labor organizations in the private sector under Parts 402, 403 and 408 of Chapter IV of Title 29. The revised LM forms have not been approved and, therefore, labor organizations subject to this order shall continue to report on the G forms. Notice of approval of the LM forms will be published in the *FEDERAL REGISTER*.

I hereby revise Parts 201, 202, 203, 204, 205 and 206 constituting the entire Chapter II of Title 29 to read as follows:

PART 201—GENERAL**Subpart A—Purpose and Scope**

Sec.

201.1 Purpose and Scope.

Subpart B—Meaning of Terms as Used in This Chapter

- 201.10 Order.
 201.11 Agency, employee, labor organization, Council, Panel, Assistant Secretary.
 201.12 National consultation rights, exclusive recognition, unfair labor practices.
 201.13 Standards of conduct for labor organizations.
 201.14 Activity and primary national subdivision of an agency.
 201.15 Assistant Regional Director.
 201.16 Area Director.

Sec.

- 201.17 Director.
 201.18 Hearing Officer.
 201.19 Administrative Law Judge.
 201.20 Chief Administrative Law Judge.
 201.21 Party.
 201.22 Intervenor.
 201.23 Certification.
 201.24 Appropriate unit.
 201.25 Secret ballot.
 201.26 Showing of interest.

AUTHORITY: Secs. 6, 18, E.O. 11491, 34 FR 17805, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 36 FR 24901; and E.O. 11838, 40 FR 5743.

Subpart A—Purpose and Scope**§ 201.1 Purpose and scope.**

The regulations contained in this chapter are designed to implement the provisions of sections 3, 6, 9, 10, 13, 18 and 19 of Executive Order 11491 of October 29, 1969, "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616 of August 26, 1971 (36 FR 17319), Executive Order 11636 of December 24, 1971 (36 FR 24901) and Executive Order 11838 of February 6, 1975 (40 FR 5743). They prescribe procedures and basic principles which the Assistant Secretary of Labor for Labor-Management Relations will utilize in:

(a) Deciding questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(b) Supervising elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative or whether employees desire consolidation of existing exclusively recognized units, and certifying the results;

(c) Deciding questions as to eligibility of labor organizations for national consultation rights under criteria prescribed by the Federal Labor Relations Council;

(d) Effectuating the standards of conduct required of labor organizations by section 18 of the order;

(e) Deciding complaints of alleged unfair labor practices (including those where an alleged unilateral act by one of the parties requires an initial negotiability determination), and alleged violations of the standards of conduct for labor organizations;

(f) Deciding questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in section 13(d) of the order.

Subpart B—Meaning of Terms as Used in This Chapter**§ 201.10 Order.**

"Order" means Executive Order 11491, entitled "Labor-Management Relations in the Federal Service," as amended.

§ 201.11 Agency, employee, labor organization, Council, Panel, Assistant Secretary.

"Agency," "employee," "labor organization," "Council," "Panel," and "Assistant Secretary" have the meanings set forth in section 2 of the order.

§ 201.12 National consultation rights, exclusive recognition, unfair labor practices.

"National consultation rights," "exclusive recognition," and "unfair labor practices" have the meanings as set forth in sections 9, 10, and 19, respectively, of the order.

§ 201.13 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in section 18 of the order, as amplified in Part 204 of this chapter.

§ 201.14 Activity and primary national subdivision of an agency.

"Activity" means any facility, geographical subdivision, or combination thereof, of any agency as that term is defined in section 2 of the order. "Primary national subdivision" of an agency has the meaning set forth in the Council's regulations.

§ 201.15 Assistant Regional Director.

"Assistant Regional Director" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.16 Area Director.

"Area Director" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.17 Director.

"Director" means the Director of the Office of Labor-Management Standards Enforcement.

§ 201.18 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing involving a question concerning the appropriateness of a unit or such other representation matters as may be assigned.

§ 201.19 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under sections 3, 13, 18, and 19 of the order and such other matters as may be assigned.

§ 201.20 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210.

§ 201.21 Party.

"Party" means any person, employee, group of employees, labor organization, activity or agency; (a) filing a complaint, petition, request, or application; (b) named in a complaint, petition, request, or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Assistant Regional Director, Area Director,

Director, Hearing Officer, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

§ 201.22 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Assistant Regional Director, Area Director, Director, Hearing Officer, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

§ 201.23 Certification.

"Certification" means the determination by the Assistant Secretary, Assistant Regional Director, or Area Director of the results of an election or after the filing of a petition to consolidate existing exclusively recognized units under the order and the regulations in this chapter.

§ 201.24 Appropriate unit.

"Appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition consistent with the provisions of section 10(b) of the order.

§ 201.25 Secret ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 201.26 Showing of interest.

"Showing of interest" means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; unaltered allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; an existing or recently expired agreement; current exclusive recognition or certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation of units; or other evidence approved by the Assistant Secretary.

PART 202—REPRESENTATION PROCEEDINGS

Sec.

202.1 Who may file petitions.

202.2 Contents of petition; procedures for national consultation rights; filing and service of petition; challenges to petition and intervention.

202.3 Timeliness of petition.

202.4 Investigation of petition and posting of notice of petition; action by Assistant Regional Director.

202.5 Intervention.

Sec.

202.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases; denial of intervention; review of action by Assistant Regional Director.

202.7 Agreement for an election.

202.8 Notice of hearing; contents; attachments; and procedures.

202.9 Conduct of hearing.

202.10 Motions.

202.11 Rights of the parties.

202.12 Duties and powers of the Hearing Officer.

202.13 Objections to conduct of hearing.

202.14 Filing of briefs.

202.15 Transfer of case to Assistant Secretary; contents of record.

202.16 Decision.

202.17 Election procedure; request for authorized representation election observers.

202.18 Challenged ballots.

202.19 Tally of ballots.

202.20 Certification; objections to election; determination on objections and challenged ballots.

202.21 Runoff elections.

202.22 Inconclusive elections.

AUTHORITY: Sec. 6, E.O. 11491, 34 FR 17605, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 36 FR 24901; and E.O. 11838, 40 FR 5743.

§ 202.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of an agency in an appropriate unit or should replace another labor organization as the exclusive representative of employees in an appropriate unit.

(b) A petition for an election to determine if a labor organization should cease to be the exclusive representative because it does not represent a majority of employees in the existing unit may be filed by any employee or employees or an individual acting on his or their behalf.

(c) A petition for an election to determine if a labor organization should cease to be the exclusive representative may be filed by an activity or agency where the activity or agency has a good faith doubt that the currently recognized or certified labor organization represents a majority of the employees in the existing unit or that, because of a substantial change in the character and scope of the unit, it was a good faith doubt that such unit is now appropriate.

(d) A petition for clarification of an existing unit or for amendment of recognition or certification may be filed by an activity or agency or by a labor organization which is currently recognized by the activity or agency as an exclusive representative.

(e) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria prescribed by the Council may be filed by a labor organization.

(f) A petition to consolidate existing exclusively recognized units may be filed by a labor organization(s), or by an activity(ies) or agency, after a labor organization or two or more labor organizations jointly have requested that

its or their existing exclusively recognized units within a single agency be consolidated.

§ 202.2 Contents of petition; procedures for national consultation rights; filing and service of petition; challenges to petition and intervention.

(a) *Petition for exclusive recognition.* A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The name of the activity and the agency involved, their addresses, telephone numbers, and the persons to contact and their titles, if known;

(2) A description of the unit claimed to be appropriate for purposes of exclusive representation by the petitioner. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the petitioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001) that its contents are true and correct to the best of his knowledge and belief;

(8) The signature of the petitioner's representative, including his title and telephone number; and

(9) The petition shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing.

(b) *Petition for an election to determine if a labor organization should cease to be the exclusive representative.*

(1) A petition by an activity or agency shall contain the information set forth in paragraph (a) of this section except subparagraphs (6) and (9) and a statement that the activity or agency has a good faith doubt that the currently recognized or certified labor organization represents a majority of the employees in the existing unit, or a statement that because of a substantial change in the character and scope of the unit, the agency or activity has a good faith doubt that such unit is now appropriate. Attached to the petition shall be a detailed

explanation of the reasons supporting the good faith doubt;

(2) A petition by any employee or employees or an individual acting on his or their behalf shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6) and (9) thereof, and it shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit indicating that the employees no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing.

(c) *Petition for clarification of unit or for amendment of recognition or certification.* A petition for clarification of unit or for amendment of recognition or certification shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (6) and (9), and shall set forth:

(1) A description of the present unit and the date of recognition or certification;

(2) The proposed clarification or amendment of the recognition or certification; and

(3) A statement of reasons why the proposed clarification or amendment is requested.

(d) *Petition and procedures for determination of eligibility for national consultation rights.* (1) A petition for determination of eligibility for national consultation rights shall contain the information required in subparagraphs (5), (6), (7), and (8) of paragraph (a) of this section, and shall set forth:

(i) The name, address, and telephone number of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(ii) A showing that petitioner holds adequate exclusive recognition as required in the Council's regulations;

(iii) A statement, as appropriate:

(A) that such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision; or

(B) that the agency or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination.

(2) Notwithstanding any other regulations in this part, except those relating to the filing of a petition under subparagraphs (2), (3) and (4) of paragraph (e) of this section, the following regulations govern petitions filed under this paragraph:

(i) A petition shall be filed within thirty (30) days following the service of written notice by the agency or primary national subdivision of either its refusal to accord national consultation rights pursuant to a request under the Council's regulations, or its intention to terminate existing national consultation rights.

(ii) If an agency or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition under this section within the time period prescribed herein, and thereby cause to be stayed further action by the agency or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an agency or primary national subdivision may terminate national consultation rights.

(iii) Within 15 days following the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Area Director raising any matter which is relevant to the petition.

(iv) The Area Director shall make such investigation as he deems necessary. Thereafter, the Assistant Regional Director shall issue and serve on the parties a report and findings with respect to the eligibility for national consultation rights. A party may obtain a review of such report and findings pursuant to § 202.6(d): *Provided, however*, That a determination by the Assistant Regional Director to issue a notice of hearing shall not be subject to review by the Assistant Secretary. The Assistant Regional Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Administrative Law Judges in accordance with §§ 203.11 through 203.25 of this chapter, excluding § 203.15 with the following exceptions:

(A) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted as provided under § 203.23(a); and

(B) Reference to "complaint" in § 203.23(b) shall be read as "petition."

After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed thereto, the Assistant Secretary shall issue his decision.

(e) *Filing and service of petition and copies.* (1) A petition for exclusive recognition, for an election to determine if a labor organization should cease to be the exclusive representative, for clarification of unit, or for amendment of recognition or certification, filed pursuant to § 202.2 (a), (b) or (c), respectively, shall be filed with the Area Director for the area in which the unit exists, or, if the claimed unit exists in two or more areas the petition shall be filed with the Area Director for the area in which the headquarters of the activity is located.

(2) A petition for determination of eligibility for national consultation rights filed pursuant to § 202.2(d) shall be filed with the Area Director for the area wherein the headquarters of the agency or the agency's primary national subdivision is located.

(3) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence relating to the question concerning representation.

(4) Copies of the petition together with the attachments referred to in subparagraph (3) of this paragraph shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Area Director. *Provided, however,* That the showing of interest submitted with a petition filed pursuant to § 202.2 (a) or (b) (2) or (h) shall not be furnished to any other party or person.

(f) *Adequacy and validity of showing of interest.* (1) The Area Director shall determine the adequacy of the showing of interest administratively, and such determination shall not be subject to collateral attack at a unit or representation hearing. If the petition is dismissed or the intervention is denied a request for review of such dismissal or denial may be filed with the Assistant Secretary.

(2) Any party challenging the validity of showing of interest of a petitioner, or of a cross-petitioner filing pursuant to § 202.5(b), or of an intervenor, must file its challenge with the Area Director, with respect to the petitioner or a cross-petitioner, within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(a), and with respect to any intervenor, within ten (10) days of service of a copy of the request for intervention on the challenging party. The challenge shall be supported with evidence including signed statements of employees and any other written evidence. The Area Director shall investigate the challenge. Thereafter, the Assistant Regional Director shall take such action as he deems appropriate which shall be final and not subject to review by the Assistant Secretary unless the petition is dismissed or the intervention is denied on the basis of the challenge.

(g) *Challenge to status of a labor organization.* Any party challenging the status of a labor organization under the Order must file its challenge with the Area Director and support the challenge with evidence. With respect to the petitioner or a cross-petitioner filing pursuant to § 202.5(b), such a challenge must be filed within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(a), and with respect to an intervenor, within ten (10) days of service of a copy of the request for intervention on the challenging party. The Area Director shall investigate the challenge. Thereafter, the Assistant Regional Director shall take such action as he deems appropriate, which shall be subject to review by the Assistant Secretary.

(h) *Petition and procedures for consolidation of existing exclusively recognized units.* (1) Action to be taken before filing a petition to consolidate existing exclusively recognized units:

(i) A request in writing must be filed by a labor organization or by two or more labor organizations jointly, with the activity(ies) or agency requesting the con-

solidation of existing exclusively recognized units represented by the labor organization(s) within a single agency.

(ii) The request shall contain a clear and concise description of the existing exclusively recognized units sought to be consolidated and whether the labor organization(s) desire(s) the consolidation with or without an election.

(2) When and where a petition to consolidate existing exclusively recognized units may be filed:

(i) If the activity(ies) or agency reject(s) in writing or fails to respond to the requested consolidation of units within thirty (30) days after the service of the request, the labor organization(s) may file a petition to consolidate existing exclusively recognized units. The labor organization(s) shall file a petition with the Area Director for the area where the headquarters of the activity or agency of the proposed consolidated unit is located: *Provided, however,* That where a petition to consolidate existing exclusively recognized units involves two or more activities, such petition may be filed with the Area Director for the area where the headquarters of any of the activities involved is located.

(ii) If there is a bilateral agreement to consolidate existing exclusively recognized units, the activity(ies), agency, or requesting labor organization(s) may individually or jointly file a petition for an election in the proposed unit with the appropriate Area Director as set forth in paragraph (h) (2) (i) of this section.

(iii) If the activity(ies) or agency and requesting labor organization(s) bilaterally agree to consolidate existing exclusively recognized units without an election, they shall file jointly a petition to consolidate such units without an election with the appropriate Area Director as set forth in paragraph (h) (2) (i) of this section.

(3) A petition to consolidate existing exclusively recognized units shall contain the information required by paragraph (a) of this section, except paragraphs (a) (2), (3), (6), and (9) and shall set forth:

(i) A description of the proposed consolidated units claimed to be appropriate for the purpose of exclusive representation by the labor organization(s). Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the consolidated unit claimed to be appropriate for the purpose of exclusive recognition;

(ii) A description of each existing exclusively recognized unit encompassed by the petition, the dates of recognition or certification the name(s) and address(es) of the exclusively recognized labor organization(s) involved, and the approximate number of employees in each unit;

(iii) A statement that a request to consolidate existing exclusively recognized units has been made to the activity(ies) or agency involved and the date of the service of such request;

(iv) A statement as appropriate:

(A) That the activity(ies) or agency, and requesting labor organization(s) agree to consolidate existing exclusively recognized units without an election;

(B) That the activity(ies) or agency, and requesting labor organization(s) desire(s) the Assistant Secretary to hold an election on the issue of the proposed consolidation;

(C) That the activity(ies) or agency has rejected or has failed to respond to the request to consolidate together with the date of the service of the written rejection, if any;

(D) The name(s) of the labor organization(s), activity(ies) or agency that should appear on the certification on consolidation of units, if such a certificate is issued.

(4) Notwithstanding any other regulations in this part, the following govern petitions filed under this paragraph:

(i) Upon the request of the Area Director, after the filing of a petition to consolidate existing exclusively recognized units, the activity(ies) or agency involved shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the exclusively recognized units involved in the proceeding.

(ii) Such notice shall set forth, as appropriate:

(A) The name(s) of petitioner(s).

(B) The description of the proposed consolidated unit.

(C) A statement that a petition for an election in the proposed unit has been filed, or a statement that if, within ten (10) days from the date of posting of such notice, thirty (30%) percent or more of the employees in the proposed consolidated unit have notified the Area Director in writing that they desire the Assistant Secretary to hold an election on the issue of the proposed consolidation, such an election will be supervised by the Area Director.

(5) The notice shall remain posted for a period of ten (10) days. It shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(6) The Area Director shall make such investigation as he deems necessary. Thereafter, the Assistant Regional Director shall issue and serve on the labor organization(s) and activity(ies) or agency involved a report and findings with respect to the petition to consolidate existing exclusively recognized units. An activity(ies) or agency or the requesting labor organization(s) or a labor organization granted intervention pursuant to § 202.5(e), may obtain a review of such report and findings pursuant to 202.6(d). If no request for review is filed, or if one is filed and denied, the Assistant Regional Director shall take such action as may be appropriate, which may include causing the Area Director to issue a certification on consolidation of units: *Provided, however,* That where the Assistant Regional Director approves, or causes the Area Director to approve, a withdrawal request, or determines to supervise an election; or to is-

sue a notice of hearing, no such report and findings need be issued and such action shall not be subject to review by the Assistant Secretary. The Assistant Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Officers in accordance with §§ 202.8 through 202.16.

(7) Agreement for Unit Consolidation Election: (i) Where an election is appropriate because the petitioner(s) or thirty (30%) percent of the affected employees desire the Assistant Secretary to hold an election on the consolidation issue, the activity(ies) or agency and the labor organization(s) involved must sign an agreement providing for such an election on a form prescribed by the Assistant Secretary. The agreement shall be filed with the appropriate Area Director.

(ii) The activity(ies) or agency and the requesting labor organization(s) shall agree on the eligibility period for participation in the election, the date(s), hour(s) and place(s) of the election and other related election procedures. In the event that they cannot agree, the Area Director, acting on behalf of the Assistant Secretary, shall decide these matters.

(iii) If the Area Director approves the agreement, the election by secret ballot shall be conducted by the activity(ies) or agency, as appropriate, under the supervision of the Area Director, in accordance with §§ 202.17 (a), (b), (c), and (f), 202.18, 202.19, and 202.20. There shall be no runoff elections.

(8) Upon the issuance of a certification on consolidation of units, the terms and conditions of existing agreements covering those units embodied in the consolidation shall remain in effect, except as mutually agreed by the parties, until a new agreement covering the consolidated unit becomes effective.

§ 202.3 Timeliness of petition.

(a) When there is no certified exclusive representative of the employees, a petition will be considered timely filed provided the petition is not for the same unit or subdivision thereof, in which a valid election has been held within the preceding twelve (12) month period.

(b) When there is a certified exclusive representative of the employees, a petition will not be considered timely if filed within twelve (12) months after the certification as the exclusive representative of employees in an appropriate unit, unless a signed and dated agreement covering the claimed unit has been entered into in which case paragraph (c) of this section shall be applicable.

(c) When an agreement covering a claimed unit has been signed and dated by the activity and the incumbent exclusive representative, a petition for exclusive recognition or other election petition will be considered timely when filed as follows:

(1) Not more than ninety (90) days and not less than sixty (60) days prior

to the terminal date of an agreement having a term of three (3) years or less from the date it was signed and dated by the activity and the incumbent exclusive representative; or

(2) Not more than ninety (90) days and not less than sixty (60) days prior to the expiration of the initial three (3) year period of an agreement having a term of more than three (3) years from the date it was signed and dated by the activity and the incumbent exclusive representative; or

(3) Any time when unusual circumstances exist which substantially affect the unit or the majority representation.

(d) When there is an agreement signed and dated by the activity and the incumbent exclusive representative having a term not exceeding three (3) years from the date it was signed, and a petition has been filed challenging the representation status of the incumbent exclusive representative and the petition is subsequently withdrawn or dismissed less than sixty (60) days prior to the terminal date of that agreement, or any time thereafter, the activity and incumbent exclusive representative shall be afforded a ninety (90) day period from the date the withdrawal is approved or the petition is dismissed free from rival claim within which to consummate an agreement: *Provided, however,* That the provisions of this paragraph shall not be applicable when any other petition is pending which has been filed pursuant to paragraph (c) of this section.

(e) When an extension of an agreement has been signed more than sixty (60) days before its terminal date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(f) When an election has been held to consolidate existing exclusively recognized units and no certification on consolidation of units has been issued, a petition to consolidate will be considered timely filed provided the petition is not for the same unit or subdivision thereof in which a valid consolidation election has been held within the preceding twelve (12) month period.

(g) When there is a certification on consolidation of units, a petition will not be considered timely if filed within twelve (12) months after the certification on consolidation of units has been issued: *Provided, however,* That once a signed and dated agreement covering the claimed consolidated unit has been entered into, the provisions of paragraph (c) of this section shall apply.

(h) Agreements which go into effect automatically pursuant to section 15 of the order shall contain the date on which the agreement became effective.

(i) A petition filed pursuant to § 202.2 (a) and (b) of this part seeking an election in any existing exclusively recognized unit covered by a pending petition to consolidate existing exclusively recognized units must be filed timely in accordance with the requirements set forth in this section.

(j) A petitioner who withdraws a petition after the issuance of a notice of hearing or after the approval of an agreement for an election, shall be barred from filing another petition for the same unit or any subdivision thereof for six (6) months, unless a withdrawal request has been received by the Assistant Regional Director not later than three (3) days before the date of the hearing.

(k) The time limits set forth in this section shall not apply to a petition for clarification of unit or for amendment of recognition or certification.

§ 202.4 Investigation of petition and posting of notice of petition; action by Assistant Regional Director.

(a) Upon the request of the Area Director, after the filing of a petition, the activity shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit involved in the proceeding.

(b) Such notice shall set forth:

(1) The name of the petitioner;

(2) The description of the unit involved;

(3) If appropriate, the proposed clarification of unit or the proposed amendment of recognition or certification; and

(4) A statement that all interested parties are to advise the Area Director in writing of their interest and position within ten (10) days from the date of posting of such notice.

(c) The notice shall remain posted for a period of ten (10) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(d) The activity shall furnish the Area Director and all known interested parties with the following:

(1) Names, addresses and telephone numbers of all labor organizations known to represent any of the employees in the claimed unit;

(2) A copy of all relevant correspondence;

(3) A copy of existing or recently expired agreements covering any of the employees described in the petition;

(4) A current alphabetized list of employees included in the unit described in the petition, together with their job classifications; and

(5) A current alphabetized list of employees described in the petition as excluded from the unit, together with their job classifications.

(e) The parties are expected to meet as soon as possible after the expiration of the ten (10) day posting period of the notice of petition as provided in paragraph (a) of this section and use their best efforts to secure agreement on an appropriate unit, including, where appropriate, consulting with higher authority within the agency and the labor organizations involved.

(f) Within thirty (30) days following the receipt of a copy of the petition, unless an extension of time has been granted by the Area Director, and if there is no agreement for an election,

the activity shall file a response thereto with the Area Director raising any matter which is relevant to the petition. A copy of such response shall be served on the parties and a statement of such service shall be filed with the Area Director.

(g) The Area Director shall make such investigation as he deems necessary, and he may approve an agreement for an election in an agreed upon appropriate unit as provided under § 202.7.

(h) The Assistant Regional Director shall take action which may consist of the following, as appropriate:

- (1) Approve, or cause the Area Director to approve, a withdrawal request;
- (2) Dismiss the petition; or
- (3) Issue a notice of hearing.

(i) In processing a petition for clarification of unit or for amendment of recognition or certification, where appropriate, the Assistant Regional Director shall prepare and serve a report and findings upon all parties to the proceedings and shall state therein, among other pertinent matters, his conclusions and the action contemplated. A party may file a request for review of such action of the Assistant Regional Director in accordance with the procedures set forth in § 202.6(d).

If no request for review is filed, or if one is filed and denied, the Assistant Regional Director shall take such action as may be appropriate, which may include issuing a clarification of unit or causing the Area Director to issue an amendment of recognition or certification.

(j) A determination by the Assistant Regional Director to issue a notice of hearing shall not be subject to review by the Assistant Secretary.

§ 202.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding involving a petition filed pursuant to § 202.2 (a) or (b) unless it has submitted a showing of interest of ten (10%) percent or more of the employees in the unit involved in the petition together with an alphabetical list of names constituting such showing, or has submitted a current or recently expired agreement with the activity covering any of the employees involved, or has submitted evidence that it is the currently recognized or certified exclusive representative of any of the employees involved: *Provided, however,* That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding unless it serves on the Area Director a written disclaimer of any representation interest for the employees in the unit sought. *Provided, further,* That any such incumbent exclusive representative that declines to sign an agreement for an election because of a disagreement on the matters contained in § 202.7(c) as decided by the Area Director, or fails to appear at a hearing held pursuant to § 202.9, shall be denied its status as an intervenor.

(b) A labor organization seeking exclusive recognition in a unit different from the unit initially petitioned for, and which includes any or all of the em-

ployees in that unit, must file a petition with the Area Director in accordance with § 202.2 (a) and (e) within ten (10) days after the date of posting of the notice of the initial petition as provided under § 202.4(a), unless good cause is shown for extending the period.

(c) No labor organization may participate to any extent in any representation proceeding unless it has notified the Area Director in writing, accompanied by its showing of interest as specified in paragraph (a) of this section, of its desire to intervene within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(a), unless good cause is shown for extending the period. A copy of the request for intervention filed with the Area Director, excluding the showing of interest, shall be served on all known interested parties, and a written statement of such service should be filed with the Area Director: *Provided, however,* That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding in accordance with paragraph (a) of this section.

(d) Any labor organization intervening must supply a statement to the Area Director that it has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws and a statement of its objectives.

(e) The Area Director may grant intervention to a labor organization in a proceeding involving a petition for clarification of unit or a petition for amendment of recognition or certification filed pursuant to § 202.2(c) or a petition to consolidate existing exclusively recognized units filed pursuant to § 202.2(h) based on a showing that the proposed clarification, amendment or consolidation affects that labor organization's existing exclusively recognized unit(s) in that it would cover one or more employees who are included in its unit(s).

§ 202.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases; denial of intervention; review of action by Assistant Regional Director.

(a) If the Assistant Regional Director determines after such investigation as he deems necessary that the petition has not been timely filed, the claimed unit is not appropriate, the petitioner has not made a sufficient showing of interest, the petition is not otherwise actionable, or an intervention is not appropriate, he may instruct the Area Director to request the petitioner or intervenor to withdraw the petition or the request for intervention. In the absence of such withdrawal within a reasonable period of time, he may dismiss the petition or deny the request for intervention.

(b) If the Assistant Regional Director determines, after investigation, that a valid issue has been raised by a challenge under § 202.2 (f) or (g), he may take action which may consist of the following, as appropriate:

- (1) Instruct the Area Director to request the petitioner or intervenor to

withdraw the petition or the request for intervention;

(2) Dismiss the petition and/or deny the request for intervention if a withdrawal request is not submitted within a reasonable period of time;

(3) Defer action on the petition or request for intervention until such time as issues raised by the challenges have been resolved pursuant to this part; or

(4) Consolidate such issues with the representation matter for resolution of all issues.

(c) If the Assistant Regional Director dismisses the petition or denies the request for intervention, he shall serve on the petitioner or the party requesting intervention a written statement of the grounds for the dismissal or the denial, and serve a copy of such statement on the activity, and on the petitioner and any intervenors, as appropriate.

(d) The petitioner or party requesting intervention may obtain a review of such dismissal or denial by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of such action. Copies of the request for review shall be served on the Assistant Regional Director and the other parties, and a statement of service shall be filed with the request for review. Requests for an extension of time shall be in writing and received by the Assistant Secretary not later than three (3) days before the date the request for review is due. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based.

§ 202.7 Agreement for an election.

(a) All parties desiring to participate in an election being conducted pursuant to this section or § 202.16, including intervenors who have met the requirements of § 202.5, must sign an agreement providing for such an election on a form prescribed by the Assistant Secretary. An original and one (1) copy of the agreement shall be filed with the Area Director.

(b) An activity, petitioner and any intervenors who have complied with the requirements set forth in § 202.5 any intervenors who have complied with the requirements set forth in § 202.5 may agree that a secret ballot election shall be conducted among the employees in the agreed-upon appropriate unit to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved.

(c) The parties shall agree on the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations on the ballot and other related election procedures.

(d) In the event that the parties cannot agree on the matters contained in paragraph (c) of this section, the Area Director, acting on behalf of the Assistant Secretary shall decide these matters.

(e) If the Area Director approves the agreement, the election shall be con-

ducted by the activity or agency, as appropriate, under the supervision of the Area Director, in accordance with § 202.17.

(f) Any qualified intervenor who refuses to sign an agreement for an election may express his objections to the agreement in writing to the Area Director. The Area Director, after careful consideration of such objections, may approve the agreement or take such other action as he deems appropriate.

§ 202.8 Notice of hearing; contents; attachments; and procedures.

(a) The Assistant Regional Director may cause a notice of hearing to be issued involving (1) appropriateness of unit or other matters related to the petition, or (2) matters within the jurisdiction of the Assistant Secretary related to a determination by the head of an agency that the order cannot be applied to certain employees in a manner consistent with the internal security of the agency pursuant to section 3(b)(4) of the order.

(b) The notice of hearing shall be served on all interested parties and shall include:

(1) The name of the activity or agency, petitioner, and intervenors, if any;

(2) A statement of the time and place of the hearing, which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(3) A statement of the nature of the hearing; and

(4) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A copy of the petition shall be attached to the notice of hearing.

(d) Hearings on appropriateness of unit or other matters related to the petition pursuant to paragraph (a)(1) of this section shall be conducted by a Hearing Officer in accordance with §§ 202.9 through 202.15.

(e) Hearings on matters related to coverage of employees pursuant to paragraph (a)(2) of this section, shall be conducted by an Administrative Law Judge designated by the Chief Administrative Law Judge. Such hearings shall be in accordance with §§ 203.11 through 203.25 of this chapter, excluding §§ 203.12, 203.15 and 203.16(f), with the following exceptions:

(1) References to "complaint" in the applicable sections shall be read as "petition;" and

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted, as provided under § 203.23(a).

§ 202.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and the Hearing Officer shall obtain a full and complete record upon

which the Assistant Secretary can make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will be provided to the parties in accordance with the provisions of 29 CFR 70.62(c), or they may be examined in the appropriate Area Office during normal working hours.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rules of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

§ 202.10 Motions.

(a) *General.* (1) A motion shall state briefly the order or relief sought and the grounds for the motion: *Provided, however,* That a motion to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements of § 202.5;

(2) A motion prior to, and after a hearing and any response thereto, shall be made in writing. A response shall be filed within five (5) days after service of the motion. An original and two (2) copies of such motion and any response thereto shall be filed and copies shall be served on the parties and the Area Director. A statement of such service shall be filed with the original;

(3) During a hearing a motion may be made and responded to orally on the record;

(4) The right to make motions, or to make objections to rulings on motions, shall not be deemed waived by participation in the proceeding; and

(5) All motions, rulings, and orders shall become part of the record.

(b) *Filing of motions.* (1) Motions and responses thereto prior to a hearing shall be filed with the Assistant Regional Director. During the hearing motions shall be made to the Hearing Officer; and

(2) After the transfer of the case to the Assistant Secretary, except as otherwise provided, motions and responses thereto shall be filed with the Assistant Secretary: *Provided,* That following the close of a hearing, motions to correct the transcript shall be filed with the Hearing Officer within five (5) days after the transcript is received in the Area Office.

(c) *Rulings on motions.* (1) The Assistant Regional Director may rule on all motions filed with him or he may refer them to the Hearing Officer. A ruling by the Assistant Regional Director shall be served on the parties. A ruling by the Assistant Regional Director granting a motion to dismiss a petition may be reviewed by the Assistant Secretary upon the filing by the petitioner of a request for review pursuant to § 202.6(d);

(2) The Hearing Officer shall rule, either orally on the record or in writing, on all motions made at the hearing or referred to him, except that a motion to dismiss a petition shall be referred for

appropriate action at such time as the record is considered by the Assistant Regional Director or the Assistant Secretary. Rulings by the Hearing Officer reduced to writing shall be served on the parties; and

(3) The Assistant Secretary shall consider the rulings by the Assistant Regional Director and the Hearing Officer when the case is transferred to him for decision.

§ 202.11 Rights of the parties.

(a) A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) A party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

§ 202.12 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matters before him. With respect to cases assigned to him between the time he is designated and the transfer of the case to the Assistant Secretary, the Hearing Officer shall have the authority to:

(a) Grant requests for appearance of witnesses or production of records;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take, or cause depositions to be taken, whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing, persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(h) Dispose of procedural requests, motions, or similar matters, which shall be made part of the record of the proceeding, including motions referred to the Hearing Officer by the Assistant Regional Director and motions to amend petitions;

(i) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement

thereof at the hearing or by other appropriate notice;

(l) Rule on motions to correct transcript which are received within five (5) days after the transcript is received in the Area Office; and

(m) Take any other action necessary under this section and not prohibited by the regulations in this chapter.

§ 202.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exceptions will be allowed to all adverse rulings.

§ 202.14 Filing of briefs.

A party desiring to file a brief with the Assistant Secretary shall file the original and two (2) copies within seven (7) days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the Hearing Officer may allow time not to exceed fourteen (14) additional days for the filing of briefs with the Assistant Secretary. Copies thereof shall be served on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Officer during the hearing shall be made to the Assistant Regional Director, in writing, and copies thereof shall be served on the other parties, and a statement of such service shall be filed with the Assistant Regional Director. Requests for extension of time shall be in writing and received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Assistant Secretary.

§ 202.15 Transfer of case to Assistant Secretary; contents of record.

Upon the close of the hearing the case is transferred automatically to the Assistant Secretary. The record of the proceeding shall include the petition, notice of hearing, serving sheet, motions, rulings, orders, official transcript of the hearing with any corrections thereto, stipulations, objections, depositions, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 202.16 Decision.

The Assistant Secretary will issue a decision determining the appropriate unit, directing an election or dismissing the petition, or making other disposition of the matters before him.

§ 202.17 Election procedure; request for authorized representation election observers.

This section governs all elections conducted under the supervision of an Area Director, pursuant to § 202.7 or § 202.16.

(a) Appropriate notices of election shall be posted by the activity. Such notices shall set forth the details and pro-

cedures for the election, the appropriate unit, the eligibility period, the date(s), hour(s) and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Assistant Secretary endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast. The results of an election to consolidate existing exclusively recognized units shall be determined by a majority of the valid ballots cast in the proposed consolidated unit.

(d) Whenever two or more labor organizations are included as choices in an election, any intervening labor organization may request the Area Director to remove its name from the ballot. The request must be in writing and received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Area Director whose decision shall be final.

(e) In a proceeding involving a petition for an election to determine if a labor organization should cease to be the exclusive representative filed by an agency or any employee or employees or an individual acting on his or their behalf under § 202.2(b), an organization currently recognized or certified may not have its name removed from the ballot without having served the written request submitted pursuant to paragraph (d) of this section on all parties. Such request shall contain an express disclaimer of any representation interest among the employees in the unit.

(f) Any party may be represented at the polling place(s) by observers of its own selection, subject to such limitations as the Area Director may prescribe. Representation election observers shall be on official time during the period in which they act as observers in the election. Where there is a dispute as to whether a representation election observer should serve on official time, a party to the proceeding may move that the Area Director issue a "Request for Appearance of Authorized Representation Election Observers."

(g) A party's motion to the Area Director shall be in writing and filed with the Area Director not less than fifteen (15) days prior to an election to be conducted pursuant to this Part. The motion shall name and identify the authorized representation election observers sought, and state the reasons therefor. Simultaneously with the filing of the motion with the Area Director, copies shall be served on the other parties and a written statement of such service shall be filed with the Area Director. Within five (5) days after service of a copy of the motion, a party may file objections to the motion with the Area Director and state the reasons therefor. Simultaneously

with the filing of the objections with the Area Director, copies shall be served on the other parties and a written statement of such service shall be filed with the Area Director. The Area Director shall rule upon the motion not later than five (5) days prior to the date of the election. However, for good cause shown by a party, or on his own motion, the Area Director may vary the time limits prescribed in this paragraph.

(h) An employee serving as an authorized representation election observer shall be granted official time only during such portion of his participation as occurs during his regular work hours and when he would otherwise be in a work or paid leave status. In addition, necessary transportation and per diem expenses shall be paid by the employing activity or agency.

§ 202.18 Challenged ballots.

Any party or the representative of the Assistant Secretary may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 202.19 Tally of ballots.

Upon the conclusion of the election, the Area Director shall cause to be furnished to the parties a tally of ballots.

§ 202.20 Certification; objections to election; determination on objections and challenged ballots.

(a) The Area Director shall issue to the parties a certification of results of the election, or a certification of representative, where appropriate: *Provided, however,* That no objections are filed within the time limit set forth below; the challenged ballots are insufficient in number to affect the results of the election; and no runoff or rerun election is to be held.

(b) Within five (5) days after the tally of ballots has been furnished, a party may file objections to the procedural conduct of the election, or to conduct which may have improperly affected the results of the election, setting forth a clear and concise statement of the reasons therefor. The objecting party shall bear the burden of proof at all stages of the proceeding regarding all matters raised in its objections. An original and two (2) copies of the objections shall be filed with the Area Director and copies shall be served on the parties. A statement of such service shall be filed with the Area Director. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Within ten (10) days of the filing of the objections, unless an extension of time has been granted by the Area Director, the objecting party shall file with the Area Director, evidence, including signed statements, documents and other material supporting the objections. Copies of the evidence shall be served on the parties and a statement of such service shall be filed with the Area Director.

(c) If objections are filed, or the challenged ballots are sufficient in number to affect the results of the election, the

Area Director shall investigate the objections or challenged ballots, or both.

(d) When the Assistant Regional Director determines that no relevant issue of facts exists, he (1) shall find whether improper conduct occurred of such a nature as to warrant the setting aside of the election and, if so, indicate his intention to set aside the election, or (2) shall rule on determinative challenges to ballots, if any, or both. The Assistant Regional Director shall issue a report and findings on objections and/or challenged ballots which shall be served upon all parties to the proceeding. Such report and findings shall state therein any additional pertinent matters such as his intent to rerun the election or count ballots at a specified date, time, and place, and if appropriate, that he will cause to be issued a revised tally of ballots.

(e) When the Assistant Regional Director determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, he shall notify the parties in his report and findings and transfer the case to the Assistant Secretary in accordance with § 206.5(a) or (b) of this chapter.

(f) Any party aggrieved by the findings of an Assistant Regional Director with respect to objections to an election or challenged ballots, may obtain a review of such action by the Assistant Secretary by following the procedure set forth in § 202.2(d) of this chapter: *Provided, however*, That a determination by the Assistant Regional Director to issue a notice of hearing shall not be subject to review by the Assistant Secretary.

(g) Where it appears to the Assistant Regional Director that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Assistant Regional Director shall cause to be issued a notice of hearing. Such proceeding shall be conducted in accordance with §§ 203.11 through 203.25 of this chapter, excluding §§ 203.15 and 203.16(f), with the following exceptions:

(1) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted, as provided under § 203.23(a); and

(2) Reference to "complaint" in § 203.23(b) shall be read as "report and findings of the Assistant Regional Director."

(h) At a hearing conducted pursuant to paragraph (g) of this section the party filing the objections shall have the burden of proving all matters alleged in its objections by a preponderance of the evidence. With respect to challenged ballots, no burden of proof is imposed on any party.

(i) The Assistant Secretary shall take action which may consist of the following, as appropriate:

(1) Issue a decision adopting, modifying or rejecting the Administrative Law Judge's recommended decision and order.

(2) Issue a decision in any case involving a substantial question of interpretation or policy transferred pursuant to paragraph (e) of this section; or

(3) Issue a ruling with respect to a request for review filed pursuant to paragraph (f) of this section affirming or reversing, in whole or in part, the Assistant Regional Director's findings, or make such other disposition as may be appropriate.

§ 202.21 Runoff elections.

(a) The activity shall conduct a runoff election under supervision of the Area Director when an election in which the ballot provided for not less than three (3) choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, and any objections which had been filed have been disposed of, and any challenged ballots have been disposed of or are not sufficient in number to affect the results of the election, as provided herein. Only one runoff election shall be held pursuant to this section.

(b) Employees who were eligible to vote in the original election and who also are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

§ 202.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot has received a majority of the valid ballots cast. If there are no challenged ballots that would affect the results of the election, the Area Director may declare the election a nullity and may order another election, providing for a selection from among the choices afforded in the previous ballot in the following situations:

(1) The ballot provided for a choice among two or more representatives and "neither" or "none," and the votes are equally divided among the several choices;

(2) The number of ballots cast for one choice in an election is equal to the number cast for another choice but less than the number cast for the third choice; or

(3) The runoff ballot provides for a choice between two representatives and the votes are equally divided.

(b) Only one further election pursuant to this section may be held.

PART 203—UNFAIR LABOR PRACTICE PROCEEDINGS

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AUTHORITY: Sec. 6, E.O. 11491, 34 FR 17696, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 36 FR 24901; and E.O. 11838, 40 FR 5743.

§ 203.1 Who may file complaints.

A complaint that an activity, agency or labor organization has engaged in any act prohibited under section 19 of the order or has failed to take any action required by the order, may be filed by an employee, an activity, agency, or a labor organization.

§ 203.2 Action to be taken before filing a complaint with the Assistant Secretary; timeliness of complaint.

(a) *Action to be taken before filing a complaint.* A party desiring to file a complaint alleging an unfair labor practice under section 19 of the order, other than section 19(b)(4), must take the following action first:

(1) A charge in writing alleging the unfair labor practice must be filed directly with the party or parties against whom the charge is directed (hereinafter referred to as the respondent(s));

(2) The charge must be filed within six (6) months of the occurrence of the alleged unfair labor practice;

(3) The charge shall contain a clear and concise statement of the facts constituting the unfair labor practice, including the time and place of occurrence of the particular acts; and

(4) The parties involved shall investigate the alleged unfair labor practice so that all the facts are known, and attempt informally to resolve the matter.

(b) *Timeliness of a complaint.* (1) If the parties are unable to dispose informally of the charge within thirty (30) days, the charging party may file a complaint, limited to the matters raised in the charge.

(2) If a written decision expressly designated as a final decision on the charge is served by the respondent on the charging party, that party may file a com-

plaint immediately but in no event later than sixty (60) days from the date of such service.

(3) A complaint must be filed within nine (9) months of the occurrence of the alleged unfair labor practice or within sixty (60) days of the service of a respondent's written final decision on the charging party, whichever is the shorter period of time.

(4) A complaint alleging a violation of section 19(b)(4) of the order may be filed immediately and without the necessity of filing a charge as required under paragraph (a) of this section.

§ 203.3 Contents of the complaint and supporting documents.

(a) A complaint alleging a violation of section 19 of the order shall be submitted on forms prescribed by the Assistant Secretary and shall contain the following:

(1) The name, address, and telephone number of the employee, activity or agency or labor organization making the complaint (hereinafter referred to as the complainant);

(2) The name, address, and telephone number of the activity, or agency or labor organization against whom the complaint is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of the order alleged to have been violated, the names and addresses of the individuals involved, and the time and place of occurrence of the particular acts;

(4) A statement of any other procedure invoked involving the subject matter of the complaint and the results, if any, including whether the subject matter raised in the complaint has been referred to the Council, Panel, or Federal Mediation and Conciliation Service for consideration or action; and

(5) A declaration by the person signing the complaint, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief.

(b) When filing a complaint, the complainant shall submit to the Area Director any supporting documents, pursuant to § 203.2, including, among other things, the pre-complaint charge, a copy of all relevant correspondence, other written materials, signed statements of witnesses, summaries of meetings and discussions, offers of settlement by the respondent and settlement proposals advanced by the complainant.

§ 203.4 Filing and service of copies.

(a) An original and four (4) copies of the complaint and two (2) copies of any supporting documents shall be filed with the Area Director for the area in which the alleged unfair labor practice occurred, or if it occurred in two or more areas, the complaint shall be filed with the Area Director in any of the areas in which the alleged unfair labor practice occurred.

(b) A copy of the complaint and any supporting documents shall be served by the complainant on the respondent(s)

and all other parties and a written statement of such service shall be filed with the Area Director.

§ 203.5 Response to a complaint; stipulation of facts.

(a) Upon the service of a copy of a complaint on the respondent(s), the respondent(s) shall file a response thereto with the Area Director raising any matter which is relevant to the complaint. A copy of such response shall be served on the parties and a statement of such service shall be filed with the Area Director. Unless an extension of time is granted by the Area Director, the timeliness of a response shall be as follows:

(1) A response to a complaint alleging a violation of section 19(b)(4) of the order shall be filed within twenty-four (24) hours after the service of a copy of the complaint.

(2) A response to a complaint alleging a violation of any other subsection of section 19 of the order shall be filed within fifteen (15) days of the service of a copy of the complaint.

(b) Subsequent to the filing of a complaint, the parties may submit to the Area Director a stipulation of facts and their request for a decision by the Assistant Secretary without a hearing. The stipulation shall be forwarded to the Assistant Regional Director by the Area Director.

§ 203.6 Investigation of complaints; cooperation by activities, agencies and labor organizations; official time for witnesses; burden of proof; and availability of evidence.

The Area Director shall conduct such independent investigation of the complaint as he deems necessary.

(a) A party may request the Area Director to conduct an independent investigation upon a showing:

(1) That there is sufficient information to warrant further processing of the complaint; and

(2) that there are prospective individual witnesses from whom he has been unable to obtain a signed statement because of geographic dispersion of the witnesses or because of their reluctance to provide information to a party; the request must clearly identify any such witnesses and indicate the nature of their expected testimony; or

(3) that the requesting party lacks access to pertinent documents or data; the request should clearly identify such documents or data, establish their relevance, and indicate the reason why the requesting party has been unable to obtain them.

(b) At the conclusion of any independent investigation conducted at the request of a party, to the extent legally permissible, the Assistant Regional Director shall:

(1) transmit to the requesting party any data or copies of any documents obtained as a result of such investigation, notifying all other parties so that they may be supplied copies of the same upon request;

(2) transmit to all parties copies of signed statements obtained from any witness interviewed;

(3) notify the requesting party of the names of all prospective witnesses identified by him who have been contacted and who have not signed statements.

(c) In connection with the independent investigation of complaints, activities, agencies and labor organizations are expected to cooperate fully in such investigations with the Area Director.

(d) When, during the course of an independent investigation by the Area Director, it is determined that a certain employee or certain employees should be interviewed, such employee or employees shall be granted official time for the period of such interview(s) only insofar as such interview(s) occur(s) during regular work hours and when the employee(s) would otherwise be in a work or paid leave status.

(e) The complainant shall bear the burden of proof at all stages of the proceeding regarding matters alleged in its complaint, except as otherwise provided in § 203.7(b).

(f) A complaint alleging a violation of section 19(b)(4) of the order shall receive the highest priority investigation.

(g) A complaint alleging a violation of section 19(a)(2) of the order shall be given priority over all other complaints under section 19 except those involving section 19(b)(4) of the order.

§ 203.7 Action by the Assistant Regional Director.

(a) The Assistant Regional Director shall take action which may consist of the following, as appropriate:

(1) Approve, or cause the Area Director to approve, a withdrawal request;

(2) Dismiss the complaint;

(3) Approve a written settlement agreement made any time prior to the close of a hearing, if any;

(4) Transfer to the Assistant Secretary, after due consideration of its sufficiency, a stipulation of facts submitted pursuant to § 203.5(b); or

(5) Issue a notice of hearing.

(b) In a case involving a complaint alleging a violation of section 19(b)(4) of the order, action concerning such complaint shall be in accordance with the following procedures:

(1) Upon receipt of a complaint which satisfies the filing and service requirements of § 203.4, if the Assistant Regional Director has reasonable cause to believe that a violation is occurring and that a notice of hearing should be issued, he may issue a notice of preliminary hearing, with a copy of the complaint attached, requiring both the complainant and the respondent to appear before an Administrative Law Judge within twenty-four (24) hours.

(2) The Assistant Regional Director, by issuing a notice of preliminary hearing, thereupon will become a party to this proceeding and will have the burden of establishing at the preliminary hearing that there is reasonable cause to believe that a violation is occurring.

(3) Each party at the preliminary hearing shall have an opportunity to examine and cross-examine such witnesses as are deemed appropriate. The Administrative Law Judge, in his discretion,

may allow any other parties deemed necessary to the preliminary hearing to appear and present evidence.

(4) If the Administrative Law Judge, based on the evidence presented, finds that there exists a reasonable cause to believe that a section 19(b)(4) violation is occurring, and there has been no satisfactory written offer of settlement by the respondent which provides for a cessation of the alleged violative conduct and such other remedial action as may be deemed appropriate, he shall issue an order which provides for cessation of the alleged violative conduct pending disposition of the complaint.

(5) The respondent may obtain review from the Administrative Law Judge's order providing for cessation of the alleged violative conduct by filing a request for review with the Assistant Secretary within forty-eight (48) hours from the date of the issuance of such order. A copy of such request for review shall be served on the Administrative Law Judge, the Assistant Regional Director and all parties who appeared at the preliminary hearing. Statement of such service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement setting forth the facts and reasons upon which the request is based. The filing of a request for review shall not operate as a stay of an order issued by an Administrative Law Judge pursuant to subparagraph (4) of this paragraph or of the expedited hearing pursuant to subparagraph (6) of this paragraph unless the Assistant Secretary shall direct otherwise.

(6) The Assistant Regional Director shall issue immediately, after issuance of the Administrative Law Judge's order providing for cessation of the alleged violative conduct, a notice of hearing. This hearing shall be conducted by the Chief Administrative Law Judge as soon as possible but in no event later than forty-eight (48) hours from the issuance of the notice, at which time evidence will be presented as to whether there was or continues to be conduct occurring in violation of section 19(b)(4) of the order.

(7) In a hearing conducted by the Chief Administrative Law Judge involving alleged violations of section 19(b)(4) of the order, the Assistant Regional Director shall be a party to the proceedings and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

(8) The proceedings following issuance of the expedited notice of hearing shall be as provided under §§ 203.11 through 203.27, excluding § 203.15, with the following exceptions:

(i) Motions made prior to the hearing and any response thereto shall be filed with the Chief Administrative Law Judge rather than with the Assistant Regional Director as provided for under § 203.19(a); and

(ii) Copies of all motions and responses thereto filed after issuance of the expedited notice of hearing shall be served on the Assistant Regional Director.

(9) Where no notice of preliminary hearing has been issued by the Assistant Regional Director because the alleged violative conduct has ceased, the expedited procedure contained in this section shall be inapplicable and a hearing may be conducted by an Administrative Law Judge.

§ 203.8 Withdrawal or dismissal of complaint; review of action by Assistant Regional Director.

(a) If the Assistant Regional Director determines that the complaint has not been timely filed, that a reasonable basis for the complaint has not been established, or for other appropriate reasons, he may request the complainant to withdraw the complaint, and in the absence of such withdrawal within a reasonable time, he may dismiss the complaint.

(b) If the Assistant Regional Director dismisses the complaint, he shall serve a written statement of the grounds for dismissal on the parties.

(c) The complainant may obtain a review of a dismissal of a complaint by filing a request for review with the Assistant Secretary within ten (10) days of service of such dismissal. The request for review shall be filed in accordance with the procedures set forth in § 202.6(d) of this chapter.

(d) If the complainant and the respondent agree to enter into a settlement agreement to be approved by the Assistant Regional Director, upon approval by the Assistant Regional Director and compliance with the terms of the settlement agreement, no further action shall be taken in the case. In the event that the complainant fails or refuses to become a party to a settlement agreement offered by the respondent, if the Assistant Regional Director in his discretion believes that the offered settlement will effectuate the policies of the order, the agreement shall be between the respondent and the Assistant Regional Director and the latter shall decline to issue a notice of hearing. *Provided, however,* That the complainant may obtain a review of the Assistant Regional Director's action by filing a request for review with the Assistant Secretary within ten (10) days of service on the complainant of the settlement agreement between the respondent and Assistant Regional Director. The request for review shall be filed in accordance with the procedures set forth in § 202.6(d) of this chapter. If no request for review is filed or the Assistant Secretary sustains the Assistant Regional Director's action in the event of review, upon compliance with the terms of the settlement agreement, no further action shall be taken in the case.

§ 203.9 Notice of hearing.

The Assistant Regional Director may cause a notice of hearing to be issued if he finds, based on the allegations and any evidence submitted by the parties, as well as the results of any additional independent investigation by the Area Director, that there is a reasonable basis for the complaint and that no written settlement agreement has been executed: *Pro-*

vided, however, That a determination by the Assistant Regional Director to issue a notice of hearing shall not be subject to review by the Assistant Secretary.

§ 203.10 Contents of the notice of hearing; attachments.

(a) The notice of hearing shall include: (1) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(2) A statement of the nature of the hearing;

(3) A statement of the authority and jurisdiction under which the hearing is to be held; and

(4) A reference to the particular sections of the order and regulations involved.

(b) Attached to the notice of hearing shall be a copy of the complaint.

(c) Any evidence submitted by the parties and the results of any additional independent investigation conducted by the Area Director, referred to in § 203.9 shall be furnished to the Administrative Law Judge; however, such materials will not be deemed as evidence, and any party wishing to rely upon anything contained therein must make an appropriate submission at the hearing.

§ 203.11 Conduct of hearing.

(a) Hearings shall be conducted by an Administrative Law Judge designated by the Chief Administrative Law Judge and shall be open to the public unless otherwise ordered by the Administrative Law Judge.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will be provided to the parties in accordance with the provisions of 29 CFR 70.62(c), or they may be examined in the appropriate Area Office during normal working hours.

§ 203.12 Intervention.

Any person desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in § 203.19. The motion shall state the grounds upon which such person claims an interest.

§ 203.13 Rights of parties.

A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 203.14 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence or offer of

proof which is immaterial, irrelevant, unduly repetitious or customarily privileged. A party shall have the right to present its case by oral and documentary evidence and to submit rebuttal evidence.

§ 203.15 Burden of proof.

A complainant in asserting a violation of the order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 203.16 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Administrative Law Judge shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause a deposition to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion and, where appropriate, transmit to the Assistant Regional Director offers of settlement by the party or parties or withdrawal requests;

(g) Dispose of procedural requests, motions, or similar matters, which shall be made part of the record of the proceeding, including motions referred to the Chief Administrative Law Judge or to the designated Administrative Law Judge by the Assistant Regional Director and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Administrative Law Judge's recommended decision and order;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve and submit his recommended decision and order pursuant to § 203.23.

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department of Labor by reason of its functions is presumed to be

expert: *Provided, however,* That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(m) Correct or approve proposed corrections of the official transcript when deemed necessary; and

(n) Take any other action necessary under the foregoing and not prohibited by the regulations in this chapter.

§ 203.17 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a recommended decision and order on the record as made, or both.

§ 203.18 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objections to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Administrative Law Judge's recommended decision and order in accordance with § 203.22.

§ 203.19 Motions.

(a) *Filing of motions.* (1) Motions made prior to a hearing and any response thereto shall be made in writing and filed with the Assistant Regional Director: *Provided, however,* That after the issuance of a notice of hearing by the Assistant Regional Director, any motion to postpone such hearing should be filed with the Chief Administrative Law Judge at least five (5) days prior to the opening of the scheduled hearing. Motions made after the hearing opens and prior to the transfer of the case to the Assistant Secretary shall be filed with the Administrative Law Judge. After the transfer of the case to the Assistant Secretary, motions and any responses thereto shall be made in writing to and filed with the Assistant Secretary; *Provided,* That a motion to correct the transcript shall be filed with the Administrative Law Judge;

(2) A response to a motion shall be filed within five (5) days after service of the motion, unless otherwise directed; and

(3) An original and two (2) copies of motions and responses shall be filed, and copies shall be served on the parties. A

statement of such service shall accompany the original.

(b) *Rulings on motions.* (1) The Assistant Regional Director may rule on all motions filed with him before the hearing, or he may refer them to the Administrative Law Judge;

(2) Rulings by the Assistant Regional Director shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary when the case is transferred to him for decision; and

(3) The Administrative Law Judge may rule on motions referred to him prior to the hearing and on motions filed after the beginning of the hearing and before the transfer of the case to the Assistant Secretary. Such motions may be ruled upon by the Chief Administrative Law Judge in the absence of an Administrative Law Judge.

§ 203.20 Waiver of objections.

Any objection not made before an Administrative Law Judge shall be deemed waived.

§ 203.21 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 203.22 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original and two (2) copies within seven (7) days after the close of the hearing. Copies of any brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the Administrative Law Judge: *Provided, however,* That prior to the close of the hearing and for good cause, the Administrative Law Judge may grant a reasonable extension of time for filing briefs. Requests for additional time in which to file a brief under authority of this section not addressed to the Administrative Law Judge during the hearing shall be made to the Chief Administrative Law Judge, in writing, and copies thereof shall be served on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 203.23 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, if any, the Administrative Law Judge shall prepare his recommended decision and order expeditiously. The recommended decision and order shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Administrative Law Judge shall cause his recommended decision and order to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transfer the case to the Assistant Secretary including his recommended decision and order and the record. The record shall include the complaint, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exception to the Administrative Law Judge's recommended decision and order may be filed by any party with the Assistant Secretary within ten (10) days after service of the recommended decision and order: *Provided, however*, That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Request for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 203.24 Contents of exceptions to the Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made; and

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 203.25 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued; and

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting

briefs may be filed at the discretion of the Assistant Secretary.

§ 203.26 Action by the Assistant Secretary.

(a) After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as he deems appropriate: *Provided, however*, That unless exceptions are filed which are timely and in accordance with § 203.24, the Assistant Secretary may, at his discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, in which event the findings, conclusions, and recommendations of the Administrative Law Judge, as contained in his recommended decision and order shall, upon appropriate notice to the parties, automatically become the decision of the Assistant Secretary.

(b) Upon finding a violation of the order the Assistant Secretary may order the respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as he deems appropriate to effectuate the policies of the order.

(c) Upon finding no violation of the order, the Assistant Secretary shall dismiss the complaint.

(d) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 203.27 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition, referral to the Council or take such other action as may be appropriate.

PART 204—STANDARDS OF CONDUCT

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AUTHORITY: Secs. 6 and 18, E.O. 11491, 34 FR 17605, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 36 FR 24901; and E.O. 11838, 40 FR 5743.

Subpart A—Substantive Requirements
Concerning Standards of Conduct

§ 204.1 General.

The term "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 et seq.). Unless otherwise provided in this part or in the order, any term in any section of the LMRDA, which is incorporated into this part by reference and any term in this part which is also used in the LMRDA, shall have the meaning which that term has under the LMRDA, unless the context in which it is used indicates that such meaning is not applicable. In applying the standards contained in this subpart the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of the LMRDA and, where no such interpretations exist, he will be guided, as appropriate, by decisions of the courts.

§ 204.2 Bill of rights of members of labor organizations.

(a)(1) *Equal rights.* Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) *Freedom of speech and assembly.* Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) *Dues, initiation fees, and assessments.* Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date this section is published shall not be increased, and no general or special assessment shall be levied upon such members, except—

(i) In the case of a local organization, (a) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (b) by majority vote of the members in good standing voting in a membership

referendum conducted by secret ballot; or

(ii) In the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (A) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than 30 days written notice to the principal office of each local or constituent labor organization entitled to such notice, or (B) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (C) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided*, That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) *Protection of the right to sue.* No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceedings, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof.

(5) *Safeguards against improper disciplinary action.* (a) No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined, except for nonpayment of dues by such organization or by any officer thereof unless such member has been (i) served with written specific charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall not be a defense to any proceeding instituted against the labor organization under this part or Executive Order 11491, as amended.

(c) Nothing contained in this section shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

(d) It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each agreement made by such

labor organization with any activity or agency to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer, copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. An employee's rights under this paragraph shall be enforceable in the same manner as the rights of a member.

§ 204.3 Application of LMRDA labor organization reporting requirements.

The reporting provisions of Parts 402, 403, and 408 of Chapter IV of this title shall apply to labor organizations subject to Executive Order 11491, as amended. Sections 204.4 through 204.25 are reserved. Labor organizations subject to this order shall continue to report on the G forms until such time as the use of LM forms have been approved. Notice of approval will be published in the FEDERAL REGISTER.

TRUSTEESHIPS

§ 204.26 Purposes for which a trusteeship may be established.

Trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of (a) correcting corruption or financial malpractice, (b) assuring the performance of negotiated agreements or other duties of a representative of employees, (c) restoring democratic procedures, or (d) otherwise carrying out the legitimate objects of such labor organization.

§ 204.27 Prohibited acts relating to subordinate body under trusteeship.

During any period when a subordinate body of a labor organization is in trusteeship, (a) the votes of delegates or other representatives from such body in any convention or election of officers of the labor organization shall not be counted unless the representatives have been chosen by secret ballot in an election in which all the members in good standing of such subordinate body were eligible to participate; and (b) no current receipts or other funds of the subordinate body except the normal per capita tax and assessments payable by subordinate bodies not in trusteeship shall be transferred directly or indirectly to the labor organization which has imposed the trusteeship: *Provided*, however, That nothing contained in this section shall prevent the distribution of the assets of a labor organization in accordance with its constitution and bylaws upon the bona fide dissolution thereof.

§ 204.28 Presumption of validity.

In any proceeding involving § 204.26, a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive trusteeship established by a labor organization or before such other body as may be provided in accordance with its constitution and bylaws shall be presumed valid for a period of 18 months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for purposes allowable under § 204.26. After the expiration of 18 months the trusteeship shall be presumed invalid in any such proceeding, unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under § 204.26.

ELECTIONS**§ 204.29 Election of officers.**

Every labor organization subject to the order shall conduct periodic elections of officers in a fair and democratic manner. All elections of officers shall be governed by the standards prescribed in sections 401 (a), (b), (c), (d), (e), (f) and (g) of the LMRDA to the extent that such standards are relevant to elections held pursuant to the order.

ADDITIONAL PROVISIONS APPLICABLE**§ 204.30 Removal of elected officers.**

When an elected officer of a local labor organization is charged with serious misconduct and the constitution and bylaws of such organization do not provide an adequate procedure meeting the standards of § 417.2(e) of this title for removal of such officer, the labor organization shall follow a procedure which meets those standards. A labor organization which has adequate procedures in its constitution and bylaws shall follow those procedures.

§ 204.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.

The standards of fiduciary responsibility prescribed in section 501(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof.

§ 204.32 Provision for accounting and financial controls.

Every labor organization shall provide accounting and financial controls necessary to assure the maintenance of fiscal integrity.

§ 204.33 Prohibition of conflicts of interest.

(a) No officer or agent of a labor organization shall, directly or indirectly through his spouse, minor child, or otherwise (1) have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to

such labor organization, or (2) engage in any business or financial transaction which conflicts with his fiduciary obligation.

(b) Actions prohibited by paragraph (a) of this section include, but are not limited to, buying from, selling, or leasing directly or indirectly to, or otherwise dealing with the labor organization, its affiliates, subsidiaries, or trusts in which the labor organization is interested, or having an interest in a business any part of which consists of such dealings, except bona fide investments of the kind exempted from reporting under section 202(b) of the LMRDA. The receipt of salaries and reimbursed expenses for services actually performed or expenses actually incurred in carrying out the duties of the officer or agent is not prohibited.

§ 204.34 Loans to officers or employees.

No labor organization shall directly or indirectly make any loan to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

§ 204.35 Bonding requirements.

Every officer, agent, shop steward, or other representative or employee of any labor organization subject to the order (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded in accordance with the principles of section 502 (a) of the LMRDA. In enforcing this requirement the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of section 502(a) of the LMRDA.

§ 204.36 Prohibitions against certain persons holding office or employment.

The prohibitions against holding office or employment in a labor organization contained in section 504(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof. The prohibitions shall also be applicable to any person who has been convicted of, or who has served any part of a prison term resulting from his conviction of, violating 18 U.S.C. 1001 by making a false statement in any report required to be filed pursuant to this subpart, or who has been determined by the Assistant Secretary after an appropriate proceeding pursuant to §§ 204.66 through 204.92 to have willfully violated § 204.27: *Provided, however,* That the duties and responsibilities of the Board of Parole of the U.S. Department of Justice under section 504(a) of the LMRDA shall be assumed under this section by the Assistant Secretary or such other person as he may designate for the purpose of determining whether it would not be contrary to the order and this section to permit a person barred from holding office or employment to hold such office or employment.

§ 204.37 Prohibition of certain discipline.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of the order of this chapter.

§ 204.38 Deprivation of rights under the order by violence or threat of violence.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall use, conspire to use, or threaten to use force or violence to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of the order or of this chapter.

Subpart B—Proceedings for Enforcing Standards of Conduct**§ 204.50 Investigations.**

When he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of this part (other than § 204.2, Bill of Rights of members of labor organizations or § 204.37, Prohibition of certain discipline) the Director shall cause an investigation to be conducted. The authority to investigate possible violations of this part (other than §§ 204.2 or 204.37) shall not be contingent upon receipt of a complaint.

§ 204.51 Inspection of records and questioning.

In connection with such investigation an Area Director or his representative may inspect such records and question such persons as he may deem necessary to enable him to determine the relevant facts. Every labor organization, its officers, employees, agents, or representatives shall cooperate fully in any investigation and shall testify and produce the records or other documents requested in connection with the investigation. This section shall be enforced in accordance with the procedures in §§ 204.66 through 204.92.

§ 204.52 Report of investigation.

The Area Director's report of investigation (except those relating to complaints under § 204.2, Bill of Rights of members of labor organizations or § 204.37, Prohibition of certain discipline) shall be submitted through the Assistant Regional Director to the Director, who may report to interested persons concerning any matter which he deems to be appropriate as a result of such an investigation.

§ 204.53 Filing of complaints.

A complaint alleging violations of this part may be filed with any area office, or any other office of the Labor-Management Services Administration.

PROCEDURES INVOLVING BILL OF RIGHTS
OR PROHIBITED DISCIPLINE

§ 204.54 Complaints alleging violations
of § 204.2, Bill of Rights of mem-
bers of labor organizations or
§ 204.37, prohibition of certain dis-
cipline.

Any member of a labor organization whose rights under the provisions of § 204.2 or § 204.37 are alleged to have been infringed or violated, may file a complaint in accordance with § 204.53: *Provided, however,* That such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization.

§ 204.55 Content of complaint.

(a) The complaint shall contain appropriate identifying information and a clear and concise statement of the facts constituting the alleged violation.

(b) The complainant shall submit with his complaint a statement setting forth the procedures, if any, invoked to remedy the alleged violation, including the dates when such procedures were invoked and copies of any written ruling or decision which he has received.

§ 204.56 Service on respondent.

Upon the filing of a complaint, a copy of the complaint shall be served upon the respondent, and a written statement of such service shall be furnished to the Area Director.

§ 204.57 Additional information and report.

Upon the filing of a complaint pursuant to §§ 204.54-204.56, the Area Director shall obtain such additional information as he deems necessary and shall report the essential facts, the positions of the parties, and any offers of settlement to the Assistant Regional Director.

§ 204.58 Dismissal of complaint.

If the Assistant Regional Director, after receipt of a report of the Area Director pursuant to § 204.57, determines that a reasonable basis for the complaint has not been established, or that an offer of settlement satisfactory to the complainant has been made, he may dismiss the complaint. If he dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent.

§ 204.59 Review of dismissal.

The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of dismissal. A copy of such request shall be served on the Assistant Regional Director and the respondent, and a statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement of the facts and reasons upon which a request is based.

§ 204.60 Actionable complaint.

If it appears to the Assistant Regional Director that there is a reasonable basis for the complaint, and that no offer of settlement satisfactory to the complainant has been made, he shall cause a notice of hearing to be issued and served on both the complainant and the labor organization.

§ 204.61 Notice of hearing.

The notice of hearing shall include:

(a) A copy of the complaint;

(b) A statement of the time and place of the hearing which shall be not less than 10 days after service of notice of the hearing, except in extraordinary circumstances;

(c) A statement of the nature of the hearing; and

(d) A statement of the authority and jurisdiction under which the hearing is to be held.

§ 204.62 Hearing procedures.

The proceedings following issuance of the notice of hearing shall be as provided in §§ 203.11 through 203.27 of this chapter, except that under § 203.16(f) the Administrative Law Judge rather than the Assistant Regional Director shall take appropriate action on offers of settlement.

ELECTION OF OFFICERS

§ 204.63 Complaints alleging violations
of § 204.29, election of officers.

(a) A member of a labor organization may file a complaint alleging violations of § 204.29 within 1 calendar month after he has (1) exhausted the remedies available under the constitution and bylaws of the labor organization and of any parent body, or (2) invoked such available remedies without obtaining a final decision within 3 calendar months of such invocation.

(b) The complaint shall contain a clear and concise statement of the facts constituting the alleged violation(s) and a statement of what remedies have been invoked under the constitution and bylaws of the labor organization and when such remedies were invoked.

(c) The complainant shall submit with his complaint a copy of any ruling or decision he has received in connection with the subject matter of his complaint.

§ 204.64 Investigations; dismissal of
complaint.

(a) If it is determined after preliminary inquiry that a complaint is deficient in any of the following respects, the Area Director shall conduct no investigation:

(1) The complainant is not a member of the labor organization which conducted the election being challenged; (2) the labor organization is not subject to Executive Order 11491, as amended; (3) the election was not a regular periodic election of officers; (4) the allegations, if true, do not constitute a violation or violations of § 204.29; (5) the complainant has not complied with the requirements of § 204.63(a).

(b) If investigation discloses (1) that there has been no violation or (2) that a violation has occurred but was not of the kind that may have affected the outcome or (3) that a violation has occurred but has been remedied, the Director shall issue a determination dismissing the complaint and stating the reasons for his action.

§ 204.65 Procedures following action-
able complaint.

(a) If the Director concludes that there is probable cause to believe that a violation has occurred and has not been remedied and may have affected the outcome of the election, he shall proceed in accordance with §§ 204.66 through 204.92.

(b) The challenged election shall be presumed valid pending a final decision thereon by the Assistant Secretary, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

OTHER ENFORCEMENT PROCEEDINGS

§ 204.66 Procedures for institution of
enforcement proceedings.

Whenever it appears to the Director that a violation of this part (other than § 204.2, Bill of Rights of members of labor organizations or § 204.37, Prohibition of certain discipline) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within ten (10) days following receipt of such notification, any such person or labor organization may request a conference with the Director or his representatives concerning such alleged violation. At any such conference, the Director may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Director shall institute enforcement proceedings by filing a complaint with the Chief Administrative Law Judge, U.S. Department of Labor, and shall cause a copy of the complaint to be served on each respondent named therein.

§ 204.67 Standards complaint; initiation
of proceedings.

A complaint filed under § 204.66 shall constitute the institution of a formal enforcement proceeding in the name of the Director, who shall be the only complaining party in the proceeding and shall, where he believes it appropriate, refrain from disclosing the identity of any person who called the violation to his attention (except in proceedings involving violations of section 204.29, Election of Officers). The complaint shall include the following:

(a) The name and identity of each respondent.

(b) A clear and concise statement of the facts alleged to constitute violations of the order or of this part.

(c) A statement of the relief requested.

(d) In any complaint filed by the Director on the basis of a complaint re-

ceived from a member of a labor organization pursuant to § 204.63, a statement setting forth the procedures, if any, followed to invoke available remedies, including the dates when such procedures were invoked, and the substance of any ruling or decision received by the complaining member from the labor organization or any parent body.

§ 204.68 Administrative Law Judge.

Each enforcement proceeding instituted pursuant to this part shall be conducted before an Administrative Law Judge designated by the Chief Administrative Law Judge.

§ 204.69 Answer.

(a) Within twenty (20) days from the service of the complaint the respondent shall file an answer thereto with the Chief Administrative Law Judge and shall serve a copy on all parties. The answer shall be signed by the respondent or his attorney.

(b) The answer (1) shall contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer to or plead specifically to any allegation in the complaint shall constitute an admission of such allegation.

§ 204.70 Procedure upon admission of facts.

The admission, of all the material allegations of fact in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge without further hearing shall prepare his recommended decision and order in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint.

§ 204.71 Motions and requests.

(a) Motions and requests made prior to the hearing shall be filed with the Chief Administrative Law Judge. An original and two copies of such motions and requests shall be filed and the moving party shall serve a copy on all other parties. Motions during the course of the hearing may be stated orally or filed in writing and shall be made part of the record. Each motion shall state the particular order, ruling, or action desired, and the grounds therefor. The Administrative Law Judge is authorized to rule upon all motions made prior to the filing of his report.

(b) A party may request the attendance of witnesses and/or the production of documents at a hearing held pursuant to this part, by written application before the hearing or orally during the hearing. Copies of an application filed before the opening of the hearing shall be served on the other parties, who may file written objections to the request

within five (5) days after such service. The Administrative Law Judge, after consideration of any objections, shall grant the request provided the specified testimony, and/or documents appear to be necessary to the matters under investigation. If the Administrative Law Judge denies the request he shall set forth the basis for his ruling. Upon the failure of any party or officer or employee of any party to comply with such a request which has been granted by the Administrative Law Judge, the Administrative Law Judge and the Assistant Secretary may disregard all related evidence offered by the party failing to comply with the request or take such other action as may be appropriate.

§ 204.72 Notice of hearing.

The Chief Administrative Law Judge shall issue and cause to be served upon each of the parties a notice of hearing. The notice of hearing shall include the following:

(a) The name and identity of each party and the case number.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing.

§ 204.73 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitations;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such prehearing conferences. The subsequent course of the proceeding shall be controlled by such action.

HEARING AND RELATED MATTERS

§ 204.74 Conduct of hearing.

Hearings shall be conducted by an Administrative Law Judge and shall be open to the public unless otherwise ordered by the Administrative Law Judge.

§ 204.75 Intervention.

Any person desiring to intervene in any appropriate proceeding as a party respondent shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Such a motion shall be filed with the Administrative Law Judge who shall rule upon such motion.

§ 204.76 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Administrative Law Judge shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(e) Regulate the course of the hearing, and if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding; also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Administrative Law Judge's recommended decision and order;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve, and submit his recommended decision and order pursuant to § 204.88.

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's recommended decision and order of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(m) Correct or approve proposed corrections of the official transcript when deemed necessary.

(n) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 204.77 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to ex-

amine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 204.78 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 204.79 Burden of proof.

The Director in asserting a violation of the order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 204.80 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a recommended decision and order on the record as made, or both.

§ 204.81 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Administrative Law Judge's recommended decision and order in accordance with § 204.88.

§ 204.82 Motions after a hearing.

All motions made after the transfer of the case to the Assistant Secretary, except motions to correct the record, under § 204.76(m), shall be made in writing to the Assistant Secretary. The moving party shall serve a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answers, if any, must be served on all parties and the original thereof, together with two (2) copies and statement of service, shall be filed with the Assistant Secretary after the hearing, within five (5) days after service of the

moving papers unless it is otherwise directed.

§ 204.83 Waiver of objections.

Any objection not duly urged before an Administrative Law Judge shall be deemed waived.

§ 204.84 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 204.85 Transcript.

An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will be provided to the parties, in accordance with the provisions of 29 CFR 70.62(c), or they may be examined in the Area Office in whose geographic jurisdiction the hearing has been held.

§ 204.86 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original and two (2) copies within seven (7) days after the close of the hearing: *Provided, however*, That prior to the close of the hearing and for good cause, the Administrative Law Judge may grant a reasonable extension of time. Copies of such brief shall be served on all of the parties to the proceeding. Requests for additional time in which to file a brief under authority of this section made after the hearing shall be made in writing to the Administrative Law Judge and copies thereof served on the other parties. A statement of such service shall be furnished. A request for extension of time shall be received not later than three (3) days before the date such briefs are due. In the absence of the Administrative Law Judge such requests shall be ruled upon by the Chief Administrative Law Judge. No reply brief may be filed except by permission of the Administrative Law Judge.

§ 204.87 Proposed findings and conclusions.

Within ten (10) days following the close of the hearing, the parties may submit proposed findings and conclusions to the Administrative Law Judge, together with supporting reasons therefor, which shall become part of the record.

§ 204.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, or findings and conclusions, if any, the Administrative Law Judge shall prepare his recommended decision and order expeditiously. The recommended decision and order shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including the remedial action to be taken.

(b) The Administrative Law Judge shall cause his recommended decision and order to be served promptly on all

parties to the proceeding. Thereafter, the Administrative Law Judge shall transfer the case to the Assistant Secretary including his recommended decision and order and the record. The record shall include the members complaint, the standards complaint, notice of hearing, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exceptions to the Administrative Law Judge's recommended decision and order may be filed by any party with the Assistant Secretary within ten (10) days after service of the recommended decision and order: *Provided, however*, That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 204.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 204.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting briefs may be filed at the discretion of the Assistant Secretary.

§ 204.91 Action by the Assistant Secretary.

After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole or in part, or making such other disposition of the matter as he deems appropriate.

(a) Upon finding a violation of the order the Assistant Secretary may order the respondent to cease and desist from conduct violative of the order and may require the respondent to take such affirmative corrective action as he deems appropriate to effectuate the policies of the order.

(b) Upon finding no violation of the order, the Assistant Secretary shall dismiss the complaint.

(c) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 204.92 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition, or referral to the Council as appropriate.

§ 204.93 Stay of remedial action.

In cases involving violations of this part, the Assistant Secretary may direct, subject to such conditions as he deems appropriate, that the remedial action ordered be stayed pending any further appeal that may be available under § 204.91

(c) or the regulations of the Council, except that an order directing an election of officers shall not be stayed pending appeal.

PART 205—GRIEVABILITY AND ARBITRABILITY PROCEEDINGS

- Sec.
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205.12 Compliance with a finding of an Assistant Regional Director or with a decision of the Assistant Secretary.
205.13 Subsequent unfair labor practice complaint.

AUTHORITY: Sec. 6 E.O. 11491, 34 FR 17605, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 36 FR 24901; and E.O. 11838, 40 FR 5743.

§ 205.1 Who may file an application.

(a) An application for a decision by the Assistant Secretary concerning a question as to whether or not a grievance is on a matter for which a statutory appeal procedure exists may be filed by any party to an existing agreement or any employee or group of employees within the unit covered by that agreement.

(b) An application for a decision by the Assistant Secretary concerning other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement may be filed by any party to that agreement or any employee or group of employees within the unit covered by that agreement who has or have filed the grievance involved.

(c) Where a grievance does not concern questions as to the applicability of a statutory appeal procedure, an application for a decision as to whether the matter is subject to arbitration under an existing agreement may be filed only by the activity or agency or by the exclusive representative, which is party to the agreement.

§ 205.2 Action to be taken before filing an application.

(a) Where there is a dispute as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, an application for a decision in this regard by the Assistant Secretary may be filed by any party to the agreement or any employee or group of employees within the unit covered by the agreement within sixty (60) days of a final rejection of the grievance on the grounds that a statutory appeal procedure exists: *Provided, however,* That such prescribed sixty (60) day period for filing an application shall not begin to run unless such rejection is expressly designated in writing as a final rejection.

(b) Where a grievance does not concern questions as to the applicability of a statutory appeal procedure, an application for a decision by the Assistant Secretary as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, must be filed within sixty (60) days after service on the applicant of a written rejection of its grievance on the grounds that the matter is not subject to the grievance procedure in the existing agreement, or is not subject to arbitration under that agreement: *Provided, however,* That such prescribed sixty (60) day period for filing an application shall not begin to run unless such rejection is expressly designated in writing as a final rejection.

§ 205.3 Contents of application and attachments.

(a) An application shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The name of the agency or the activity involved, its address, telephone number, the person to contact and the person's title, if known;

(2) The name, address and telephone number of the labor organization which is a party to the agreement;

(3) The effective date and the terminal date of the existing agreement;

(4) A clear and concise statement of the unresolved question(s) as to whether or not a grievance is on a matter for which a statutory appeal procedure exists or whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, including the applicable section(s) of the agreement, the alleged statutory appeal procedure involved, including all relevant sections of such appeal procedure, the date the grievance was filed and the date of service of the final written rejection of the grievance;

(5) A statement of any other procedures invoked involving the subject matter of the grievance and the results, if any, including whether the subject matter raised in the grievance has been referred to the Council, Panel, Federal Mediation and Conciliation Service, or other appropriate authorities, for consideration or action; and

(6) A declaration by the person signing the application, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief, and the signature of the applicant or the applicant's representative, including his title, address and telephone number.

(b) The application shall be accompanied by a copy of each of the following:

- (1) A statement of any other relevant facts;
- (2) The written grievance;
- (3) The agreement;
- (4) All correspondence relating to the unresolved question(s); and
- (5) The written final rejection of the grievance.

§ 205.4 Filing and service of copies.

(a) An original and four (4) copies of an application, together with two (2) copies of the attachments referred to in § 205.3(b), shall be filed with the Area Director for the area in which the activity is located, or if the activity is located in two or more areas the application shall be filed with the Area Director for the area in which the headquarters of the activity is located.

(b) Copies of the application and the attachments referred to in § 205.3(b) shall be served on the other party or parties to the agreement, and a written statement of such service shall be filed with the Area Director.

§ 205.5 Investigation of the application; stipulation of facts.

(a) If the application has been filed by a party to the agreement, the other party or parties thereto shall file a response with the Area Director within fifteen (15) days following the service of a copy of the application, unless an extension of time has been granted by the Area Director.

(b) If the application is filed by an employee or a group of employees in the exclusive unit, each of the parties to the agreement shall file a response with the Area Director within fifteen (15) days following the service of a copy of the application, unless an extension of time has been granted by the Area Director.

(c) The response shall cover any matter which is relevant to the application and shall include a statement of position and any supporting evidence on the issue(s) raised by the application and the attachments thereto. A copy of such response shall be served on all other parties, and a written statement of such service shall be filed with the Area Director.

(d) Upon the filing of an application, the Area Director shall cause such additional investigation to be made as he deems necessary.

(e) The parties may submit to the Area Director a stipulation of facts together with their request for a decision by the Assistant Secretary without a hearing. Such stipulation and request shall be forwarded to the Assistant Regional Director by the Area Director.

§ 205.6 Action by the Assistant Regional Director; review of action.

(a) The Assistant Regional Director shall take action which may consist of the following, as appropriate:

- (1) Approve, or cause the Area Director to approve, a withdrawal request;
- (2) Dismiss the application;
- (3) Transfer to the Assistant Secretary, after due consideration regarding its sufficiency, a stipulation of facts submitted pursuant to § 205.5(e);
- (4) Issue a report and findings; or
- (5) Issue a notice of hearing.

(b) Any party aggrieved by the action of the Assistant Regional Director under paragraph (a) (2) or (4) of this section may obtain a review of such action by the Assistant Secretary pursuant to the procedures set forth in § 202.6(d) of this chapter.

§ 205.7 Notice of hearing.

The Assistant Regional Director may cause a notice of hearing to be issued providing for a hearing before an Administrative Law Judge if he finds that relevant questions of fact exist concerning whether or not the grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement: *Provided, however*, That a determination by the Assistant Regional Director to issue a notice of hearing shall not be subject to review by the Assistant Secretary.

§ 205.8 Contents of notice of hearing; attachments.

(a) The notice of hearing shall include:

- (1) A statement of the time and place of the hearing, which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(2) A statement of the nature of the hearing;

(3) A statement of the authority and jurisdiction under which the hearing is to be held; and

(4) A reference to the particular sections of the order and regulations involved.

(b) Attached to the notice of hearing shall be a copy of the application and response(s) thereto.

(c) The attachments to the application referred to in § 205.3(b) shall be furnished to the Administrative Law Judge, but will not be deemed as evidence, and any party wishing to rely upon anything contained therein must make an appropriate submission at the hearing.

§ 205.9 Hearing procedures under this part.

Hearing procedures under this part shall be in accordance with §§ 203.11 through 203.21 of this chapter, with the exception that the party filing the application shall not have the burden of proving the allegations as required under § 203.15.

§ 205.10 Post-hearing procedures.

The procedures after the close of the hearing shall be in accordance with §§ 203.19 and 203.22 through 203.25 of this chapter.

§ 205.11 Action by the Assistant Secretary.

(a) After considering the Administrative Law Judge's recommended decision and order and the record and any exceptions filed thereto, the Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole or in part, or make any other disposition of the matter he deems appropriate.

(b) The Assistant Secretary may refer cases or issues therein, involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 205.12 Compliance with a finding of an Assistant Regional Director or with a decision of the Assistant Secretary.

(a) When a finding is made that a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, by an Assistant Regional Director on which a review by the Assistant Secretary has not been requested, or a decision to that effect is made by the Assistant Secretary, the parties shall report to the Assistant Regional Director, or the Assistant Secretary, as appropriate, within a specified period the action taken to implement the findings of the Assistant Regional Director or the Assistant Secretary.

(b) When the Assistant Secretary finds that the action required pursuant to a finding of an Assistant Regional Director, or to a decision of the Assistant Secretary has not been effected, the Assistant Secretary may take such action as he deems appropriate.

§ 205.13 Subsequent unfair labor practice complaint.

(a) An applicant who has received a final decision on his application in the form of either of the following: (1) An Assistant Regional Director's report and finding that the matter covered by the application is not subject to the grievance procedure in an existing agreement, and no request for review has been filed; or (2) a decision by the Assistant Secretary to that effect, may file a complaint alleging an unfair labor practice under section 19 of the order which is based on the same factual situation which gave rise to the grievance covered by the application.

(b) The procedures of Part 203 of this chapter shall apply to a complaint filed following the issuance of either of the final decisions referred to in paragraph (a) of this section with the following exceptions:

(1) The charge required to be filed pursuant to § 203.2(a) must be filed within thirty (30) days of either of the final decisions referred to in paragraph (a) of this section;

(2) The charge must be based on the same factual situation which gave rise to the grievance covered by the application; and

(3) To be considered timely under § 203.2(b) a complaint must be filed within ninety (90) days of the date the charge was filed, or within sixty (60) days of the service of the respondent's written final decision on the charging party, whichever is the shorter period of time.

PART 206—MISCELLANEOUS

Sec.	
206.1	Computation of time for filing papers.
206.2	Additional time after service by mail.
206.3	Documents in a proceeding.
206.4	Service of pleading and other papers under this chapter.
206.5	Transfer of case to the Assistant Secretary.
206.6	Transfer and consolidation of cases.
206.7	Requests for appearance of witnesses and production of documents at hearing.
206.8	Labor-Management Services Administration employees prohibited from producing files, records, memoranda, etc.; prohibited from testifying in regard thereto.
206.9	Rules to be construed liberally.
206.10	Petitions for amendment of regulations.

AUTHORITY: SECS. 6, 18, E.O. 11491, 34 FR 17605, as amended by E.O. 11616, 36 FR 17319; E.O. 11636, 38 FR 24901; and E.O. 11838, 40 FR 5743.

§ 206.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by these regulations, except in agreement bar situations described in § 202.3(c) and in processing a complaint alleging a violation of section 19(b) (4) of the order under §§ 203.5 and 203.7(b), all of this chapter, the day of the act, event, or default after which the designated period of time begins to

run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted. In agreement bar situations, if the sixtieth (60th) day prior to the terminal date of an agreement falls on Saturday, Sunday or a Federal legal holiday, a petition, to be timely, must be received by the close of business of the last official workday preceding the sixtieth (60th) day.

§ 206.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, five (5) days shall be added to the prescribed period: *Provided, however*, That five (5) days shall not be added if any extension of time may have been granted.

§ 206.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under Parts 202, 203, 204 and 205 of this chapter, including correspondence, shall show the title of the proceeding and the case number, if any.

(b) *Number of copies; form.* Except as otherwise provided in the regulations in this chapter, any document or paper shall be filed with two (2) copies in addition to the original. All matters filed shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

(c) *Signature.* The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

§ 206.4 Service of pleading and other papers under this chapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail.

(b) *Upon whom served.* All papers, except as herein otherwise provided, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or

by law and upon the Assistant Secretary, or his designated officer, or agent or Administrative Law Judge, were appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Statement of service.* The party or person serving the papers or process shall submit to the Assistant Secretary or other designated representative, or to the individual conducting the proceeding, a written statement of such service; failure to file a statement of service shall not affect the validity of the service. Proof of service shall be required only if subsequent to the receipt of a statement of service a question is raised with respect to proper service.

§ 206.5 Transfer of case to the Assistant Secretary.

(a) In any case under Parts 202, 203, and 205 of this chapter, after the filing of a petition, complaint, or application in which the Assistant Regional Director determines that no material issue of fact exists, he may transfer the case to the Assistant Secretary. The Assistant Secretary shall decide the case on the basis of the papers alone after having allowed ten (10) days for the filing of briefs and/or requests for review of the Assistant Regional Director's action. The Assistant Secretary may remand the case to the Assistant Regional Director if he determines that material fact questions exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under Parts 202, 203, and 205 of this chapter in which it appears to the Assistant Regional Director that the proceedings raise questions which should be decided by the Assistant Secretary, he may, at any time, issue an order transferring the case to the Assistant Secretary for decision or other appropriate action. Such an order shall be served on the parties.

(c) In any case in which a request for review is permitted under this chapter of an Assistant Regional Director's action, the Assistant Secretary may issue a decision or ruling affirming or reversing the Assistant Regional Director in whole or in part or making any other disposition of the matter as he deems appropriate.

§ 206.6 Transfer and consolidation of cases.

In any matter arising pursuant to the regulations in this chapter, whenever it appears necessary in order to effectuate the purposes of the order or to avoid unnecessary costs or delay, the Assistant Regional Director may consolidate cases within his own region or may transfer such cases to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 206.7 Requests for appearance of witnesses and production of documents at hearing.

(a) Assistant Regional Directors, Hearing Officers, or Administrative Law

Judges, as appropriate, upon their own motion or upon the motion of any party to a proceeding, may issue a "Request for Appearance of Witnesses" or a "Request for Production of Documents" at a hearing held pursuant to Parts 202, 203, 204, and 205 of this chapter. However, where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and the activity or agency will permit the employee witnesses to participate on official time or a party will produce the documents, no such Request need be sought.

(b) A party's motion shall be in writing and filed with the Assistant Regional Director not less than fifteen (15) days prior to the opening of a hearing or with the Hearing Officer or Administrative Law Judge during the hearing. All such motions shall name and identify the witnesses or documents sought, and state the reasons therefor. Simultaneously with the filing of the motion with the Assistant Regional Director, copies shall be served on the other parties and a written statement of such service shall be filed with the Assistant Regional Director.

(c) Within five (5) days after service of a copy of the motion on the Assistant Regional Director, a party may file objections to the motion with the Assistant Regional Director and state the reasons therefor. Simultaneously with the filing of the objections with the Assistant Regional Director, copies shall be served on the other parties and a written statement of such service shall be filed with the Assistant Regional Director. The Assistant Regional Director shall rule upon the motion, or refer it to the Hearing Officer or Administrative Law Judge for an appropriate ruling, not later than five (5) days prior to the hearing. However, for good cause shown by a party, or on his own motion, the Assistant Regional Director may vary the time limits prescribed in this paragraph and paragraph (b) of this section.

(d) Objections to a motion referred to or filed with a Hearing Officer or Administrative Law Judge may be stated orally on the record.

(e) A motion shall be granted by the Assistant Regional Director, Hearing Officer or Administrative Law Judge, after careful consideration of any objections and upon determination that the testimony or documents appear(s) to be necessary to the matters under investigation and that the motion describes with sufficient particularity the documents sought. Service of an approved "Request for Appearance of Witnesses" or "Request for Production of Documents" is the responsibility of the requesting party. If any party, officer, or official of any party fails to comply with the Request(s), or obstructs service of the Request, the Assistant Regional Director, Hearing Officer, Administrative Law Judge, or the Assistant Secretary may disregard all related evidence offered by the party failing to comply, or take such other action as may be appropriate.

(f) A denial of a motion shall be explained fully and it shall become a part of the hearing record.

(g) Employees who have been determined to be necessary as witnesses at a hearing shall be granted official time only for such participation as occurs during their regular work hours and when they would otherwise be in a work or paid leave status. Participation as witnesses includes the time necessary to travel to and from the site of a hearing, and the time spent giving testimony and waiting to give testimony, when such time falls during regular work hours. In addition, necessary transportation and per diem expenses shall be paid by the employing activity or agency.

§ 206.8 Labor-Management Services Administration employees prohibited from producing files, records, memoranda, etc.; prohibited from testifying in regard thereto.

No Assistant Regional Director, member of his staff, Area Director, Compliance Officer, or other employee of the

Labor-Management Services Administration shall produce or present any files, documents, reports, memoranda, or records of the Labor-Management Services Administration or testify in behalf of any party to any cause pending under Executive Order 11491, as amended, with respect to any information, facts, or other matters coming to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Labor-Management Services Administration without the written consent of the Assistant Secretary: *Provided, however,* That the above shall not be applicable to proceedings brought by the Director pursuant to Part 204 of these regulations.

§ 206.9 Rules to be construed liberally.

(a) The regulations in this chapter may be construed liberally to effectuate the purposes and provisions of the order.

(b) When an act is required or allowed to be done at or within a specified time, the Assistant Secretary may at any time

order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the order.

§ 206.10 Petitions for amendment of regulations.

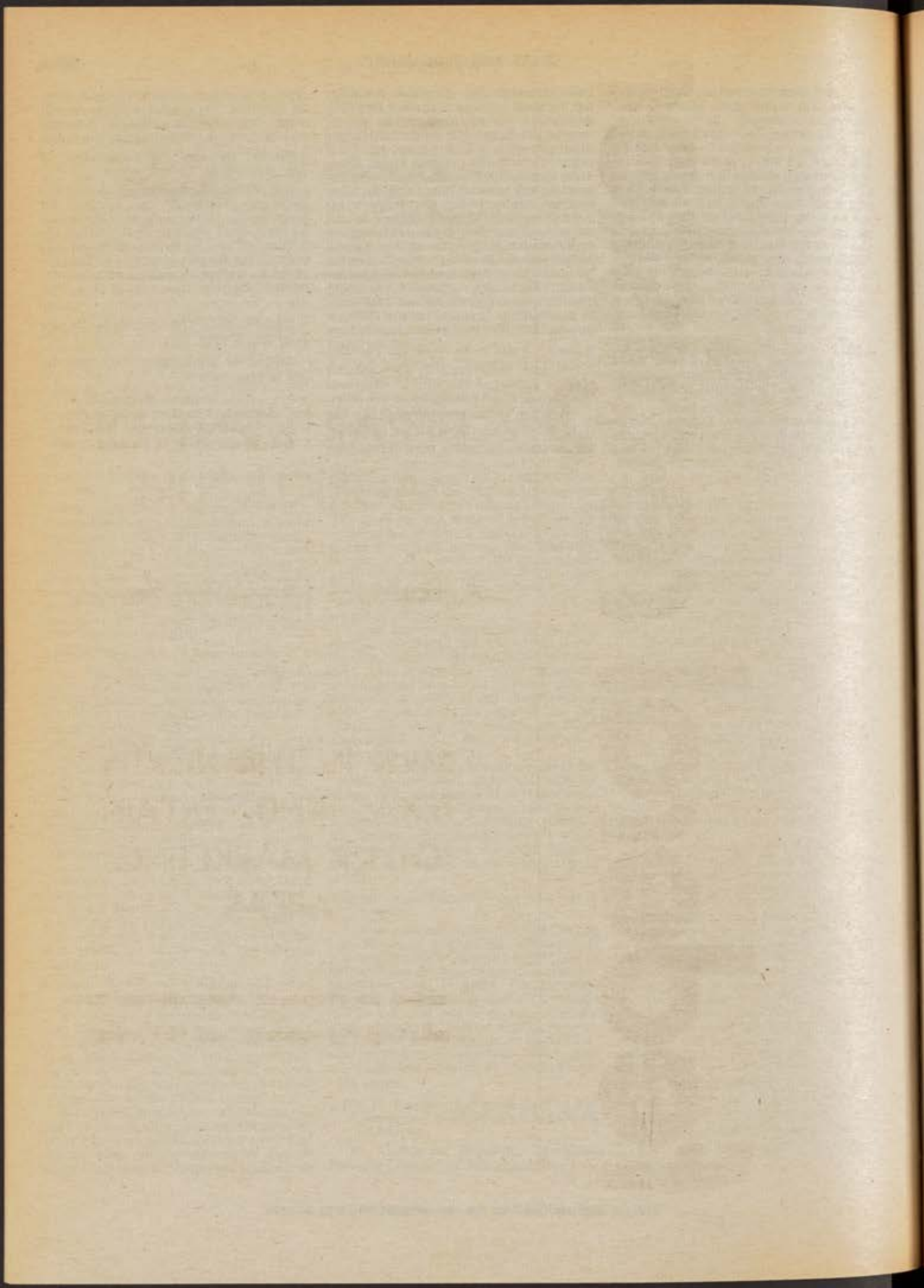
Any interested person may petition the Assistant Secretary in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

Effective date. This chapter is effective as of May 7, 1975.

Signed at Washington, D.C. this 1st day of May, 1975.

PAUL J. FASSER, Jr.,
Assistant Secretary of Labor for
Labor-Management Relations.

[FR Doc.75-11867 Filed 5-6-75;8:45 am]



federal register

WEDNESDAY, MAY 7, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 89

PART IV



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

**Decision on Proposed Amendments to
Marketing Agreements and to Orders**

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1121, 1126, 1127, 1128, 1129, 1130]

[Dockets Nos. AO-231-A41, etc.]

MILK IN THE NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

7 CFR part	Marketing Area	Docket No.
1121	South Texas.....	AO-364-A8.
1126	North Texas.....	AO-231-A41.
1127	San Antonio, Texas.....	AO-232-A27.
1128	Central West Texas.....	AO-238-A30.
1129	Austin-Waco, Texas.....	AO-256-A23.
1130	Corpus Christi, Texas.....	AO-259-A27.

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Dallas, Texas, on December 3-7, 1973, and January 22-25, 1974, pursuant to notice thereof issued on November 9, 1973 (38 FR 31432).

Certain issues pertaining to the South Texas order (issues 5 and 6 as listed below) were dealt with in a decision issued on April 24, 1974 (39 FR 14950). Amendments resulting therefrom were issued on May 22, 1974 (39 FR 18448), and became effective August 1, 1974.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator on November 27, 1974 (39 FR 43000; F.R. Doc. 74-28295), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision on the remaining issues and notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the November 27, 1974, recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "2. Need for merger of orders.":

- a. Paragraph 3 is changed.
- b. Two new paragraphs are added after paragraph 18.
- c. Ten new paragraphs are added after paragraph 23.

2. Under the heading "4. (a) Milk to be priced and pooled.": the following changes are made:

a. Under the subheading "Pool plant.":

- (1) Paragraphs 5, 22, 47, 54, and 72 are changed.

- (2) Two new paragraphs are added after paragraph 4.

- (3) A new paragraph is added after paragraph 20.

- (4) Three new paragraphs are added after paragraph 46.

- (5) Six new paragraphs are added after paragraph 72.

- b. Under the subheading "Handler.": paragraphs 7, 11, 13 and 15 are changed.

- c. Under the subheading "Producer-handler.": paragraph 2 is changed.

- d. Under the subheading "Producer.": 3 new paragraphs are added at the end of the discussion.

- e. Under the subheading "Producer milk.": paragraphs 2, 4, and 17 are changed, paragraph 3 is deleted, and a new paragraph is added after paragraph 7.

- f. Under the subheading "Definition of a receipt.": a new paragraph is added at the end of the discussion.

- 3. Under the heading "(c) Class I price and in-area location adjustments.":

- a. Paragraphs 5, 6, and 7 are changed.

- b. A new paragraph is added after paragraph 5.

- c. Paragraphs 11-14 are deleted and 4 new paragraphs are substituted therefor.

- d. Paragraph 18 is deleted.

- e. Six new paragraphs are added after paragraph 19.

- f. Paragraphs 29-31 are deleted and 7 new paragraphs are substituted therefor.

- g. Four new paragraphs are added after paragraph 36.

- h. Under the subheading "Out-of-area location adjustments.":

- (1) paragraphs 1, 2, 8, 9, 11, 16, and 19 are changed.

- (2) Paragraph 10 is deleted and 4 new paragraphs are substituted therefor.

- (3) Two new paragraphs are added after paragraph 19.

- (4) A new paragraph is added at the end of the discussion.

- 4. Under the heading "(d) Distribution of proceeds to producers.": the following changes are made:

- a. Under the subheading "Payments to producers.":

- (1) Paragraphs 8, 12, 17 and 19 are changed.

- (2) A new paragraph is added after paragraph 15.

- (3) Eight new paragraphs are added after paragraph 16.

- (4) Paragraph 20 is deleted and 4 new paragraphs are substituted therefor.

- (5) Three new paragraphs are added after paragraph 22.

- (6) A new paragraph is added at the end of the discussion.

- b. Under the subheading "Advertising and promotion program.": a new paragraph is added after paragraph 5.

- 5. Under the heading "(e) Administrative provisions.": a new paragraph is added at the end of the discussion on "Termination of order.":

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present North Texas, South Texas, San Antonio, Central West Texas, Austin-

Waco and Corpus Christi orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in the States of Texas and Arkansas;

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

- (a) Milk to be priced and pooled;
- (b) Classification of milk;
- (c) Class prices, butterfat differentials, and location adjustments;
- (d) Distribution of proceeds to producers; and
- (e) Administrative provisions;

5. Need for amending the classification and pricing provisions of the South Texas order prior to any merger of orders; and

6. Whether an emergency exists to warrant the omission of a recommended decision with respect to Issue 5.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Character of commerce.* The handling of milk in the proposed "Texas marketing area" is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and milk products.

A number of Texas handlers distributing milk in the proposed marketing area receive bulk milk from sources in Kansas, Oklahoma, and Arkansas. Also, milk is distributed regularly in the proposed area by a handler located in Oklahoma.

Plants located in the marketing area at Sulphur Springs and Muenster, Texas, in addition to manufacturing locally-produced milk not needed for fluid use, also process milk produced in Oklahoma, New Mexico, Arkansas and Kansas. Milk is shipped from these plants, as well as from farms in the proposed marketing area, to plants in Oklahoma, Arkansas, Tennessee and Missouri.

In addition to the interstate movements of bulk milk, manufactured dairy products from other states, such as cheddar cheese from Wisconsin and cottage cheese from Missouri, are marketed in the proposed Texas marketing area. Also, it is customary for condensed products and nonfat dry milk that are made at the Sulphur Springs and Muenster plants to be sold to customers in Oklahoma, Arkansas, New Mexico and other states.

2. *Need for merger of orders.* Marketing conditions in the six separately regulated marketing areas under consideration justify the issuance of a single order regulating the handling of milk in these areas. This single order is the most appropriate means of effectuating the declared policy of the Act.

The merger of the North Texas, South Texas, San Antonio, Central West Texas, Austin-Waco and Corpus Christi orders was proposed by Associated Milk Producers, Inc. This producer cooperative association represents a major propor-

tion of the producers supplying milk to handlers regulated by these six orders.

Only limited opposition to the proposed merger was expressed at the hearing by producers or handlers. Although they did not testify at the hearing, members of a relatively small cooperative association in the Corpus Christi market indicated in their brief that they opposed the inclusion of their market in any merger. A similar position was taken at the hearing by a handler regulated under the Corpus Christi order, who also expressed general opposition to a merger of any of the orders under consideration. Both the cooperative and the handler also expressed opposition to the proposed merger in their exceptions to the recommended decision.

When the six orders were promulgated, they regulated the handling of milk in areas that were generally distinguishable as separate markets for particular groups of producers. Changes in marketing practices since that time, however, have caused these separately regulated areas to become substantially interrelated in both the distribution and procurement of milk. It is reasonable to expect that the interrelationship of these present order areas will become even more pronounced over time.

From a distribution standpoint, the separate marketing areas were based on boundaries at which intermarket competition in the sale of fluid milk products was at a minimum among handlers that would be regulated under the individual orders. Since the respective orders were promulgated, the number of regulated handlers has declined significantly. For example, over 40 distributing plants were initially regulated by the North Texas order. Currently, there are 16 such regulated plants in that market, and at least four of these were not among the 40 or so initial plants. Handlers continuing in business in the several markets have increased the output of their distributing plants and have expanded their sales territory. As a result, significant intermarket competition has developed among handlers operating under the six orders.

Presently, fluid milk sales are being made in the South Texas market by 11 handlers from among the other five markets. Similarly, four such "outside" handlers have fluid sales in the North Texas market, eight have sales in the Central West Texas area, five distribute in the San Antonio area, seven sell milk in the Corpus Christi market, and 14 have fluid sales in the Austin-Waco market.

Much of the intermarket distribution is from plants regulated under the North Texas order. Of these, 10 distribute fluid milk products in the Austin-Waco market, three have sales in the Corpus Christi market, five distribute milk in the San Antonio market, 11 sell milk in the South Texas market, and seven distribute in the Central West Texas market.

Between September 1970 and September 1973, the monthly intermarket distribution among the six markets increased 54 percent (from 17.3 to 26.6 million pounds). The September 1973 intermar-

ket sales represented about 13 percent of all producer receipts used in the six markets that month in Class I.

The marketing area boundaries defined by the six orders thus no longer delineate the areas within which competition in the sale of fluid milk products is substantially only among handlers regulated by an individual order. In this circumstance, separate markets for the producers supplying these handlers no longer exist.

The six markets are also characterized by a substantial overlapping of milksheds. In May 1973, for example, 56 Texas counties were each a source of milk for handlers regulated under two or more of the six orders. Twelve of these counties were each a source of milk for three of the regulated areas, and four others were a procurement area for four or more of the order areas under consideration.

All of the six markets are significantly involved in this overlapping of supply areas. In May 1973, competition for milk supplies with at least one of the other regulated areas existed in 36 counties for the North Texas area, in 11 counties for the Central West Texas area, in 11 counties for the Austin-Waco area, in 15 counties for the San Antonio area, in 10 counties for the Corpus Christi area, and in 52 counties for the South Texas area.

The local nature of the six markets has greatly diminished also in terms of producer marketing organizations. When the individual orders were promulgated, many of the producers in the market were members of a cooperative association that confined its marketing activities to the local marketing area. Each producer group not only marketed the bulk of the milk associated with its market but also operated a "balancing" plant, usually with manufacturing facilities, for clearing the market of milk not needed by local handlers.

The majority of the producers now supplying each of the separately regulated areas are no longer associated with local market organizations but are members of the "regional" cooperative association proposing the six-market merger. This multi-market producer group is the only cooperative operating in the Central West Texas, Austin-Waco and San Antonio markets, where it furnishes virtually the total market supply, and is the predominant cooperative in the North Texas, South Texas and Corpus Christi markets.

Following the merging of the local market cooperatives into a large regional organization, steps were taken by the proponent cooperative to consolidate all of its manufacturing operations associated with the six markets into three plants. Manufacturing facilities previously operated by local cooperatives at Rusk, Ballinger, Round Rock, La Grange and San Antonio, Texas, are now closed. The only remaining cooperative association plants in these markets with manufacturing facilities are proponent's plants at Muenster and Sulphur Springs, Texas, and Hillsboro, Kansas. Although proprietary nonpool plants are in operation at

Sulphur Springs, Schulenburg and Nava-sota, Texas, these plants have relatively limited manufacturing capacity and in total represent a minor part of the necessary capacity to handle the reserve supplies of the several markets. Thus, most of the available reserve milk supply for the six-market area is processed at the proponent cooperative's plants.

Because of the cooperative's varied arrangements for supplying handlers and disposing of surplus milk, many members of this regional cooperative have no regular association with a specific market. Within a single month, milk of individual members may be moved as producer milk to two or three plants, all regulated under different orders. In June 1974, for example, about 40 percent of the producers under the six individual orders delivered milk to more than one market.¹

Returns from all member milk sold in all six markets are collected by the cooperative and rebled to its members. The price each member receives for his milk may or may not be closely related to the order uniform price announced for the market or markets to which his milk was delivered.

The proponent cooperative's Muenster and Hillsboro plants referred to earlier are presently regulated under the North Texas order. Its Sulphur Springs plant is a South Texas pool plant. In handling the reserve supplies of the various markets, the cooperative has elected in many cases to pool the milk that is received at these plants for manufacturing as producer milk under the order regulating the plant rather than as a diversion of milk from the other order plant where the producer's milk is usually received. This arrangement results in the reserve milk supplies for the six individual markets being pooled on either the North Texas or South Texas market, depending on the manufacturing plant involved. Since in this case producers on the other four markets are not bearing their proportionate share of the lower-valued reserve milk that necessarily must be associated with the Class I outlets in those markets, serious inequities result between the cooperative's members and other producers on the several markets.

When the cooperative elects to pool the milk received at its balancing plant under the order regulating the plant rather than under the order from which the milk could have been diverted, the prices received by the cooperative's member producers in the market with the balancing plant are not affected. This is because the regional association rebled the proceeds from the sale of its milk under the six orders. Producers in this market who are not members of the cooperative association, however, receive a lower uniform price because of the manner in which the cooperative pools the milk received at the balancing plant. Such a pricing situation results in dis-

¹ Official notice is taken of the July 1974 issue of "Milk Market Report" published by the market administrator for the six Texas orders involved in this proceeding.

orderly marketing conditions and considerable unrest among producers who are receiving the lower prices.

In its exceptions to the recommended decision, this cooperative indicated that the above description of its operations was misleading in two respects. The cooperative claimed that there is the implication that it is free to elect "at all times" whether to pool milk under the order regulating the balancing plant or to treat the milk as a diversion from another order. It contended that its options in this regard actually are limited by the constraints of various regulatory requirements.

In response, we would merely point out that the above findings do not suggest that the cooperative is in a position to make such an election "at all times." The varying provisions of the individual orders, the different sizes of the markets and practical methods of operation all combine to place some constraints on the cooperative's pooling of milk in certain markets at certain times.

The cooperative also claimed in its exceptions that the Acting Administrator failed to recognize that when milk is pooled under the order regulating the balancing plant nonmembers in the other market from which the milk is shifted receive a higher uniform price. This presumably is true, but the point has significance only if there is more than a token number of nonmembers in the other market.

In view of these circumstances, separate orders for the several areas under consideration are no longer compatible with the current marketing practices in these regulated areas. The adoption of a single regulation for an area that has become a common market will insure more orderly marketing and promote a more equitable sharing of the proceeds from the sale of their milk among all producers supplying the market.

The proposed merger of the six orders was opposed at the hearing by a handler regulated under the Corpus Christi order. The handler indicated that separate orders are necessary to reflect differing production conditions, such as availability and price of feeds, in the several marketing areas. The handler also stated that if the six orders are merged market data for the individual production areas no longer would be available and that producers, consumers and handlers benefit from such data.

A merger of the six orders will not result in a disregard for the production conditions in the supply areas of the merged market. Such conditions necessarily must be taken into consideration in establishing an appropriate Class I price level under a merged order. An inadequate recognition of the existing production conditions could result over time in either excessive or insufficient milk supplies for consumers in the market.

It is possible under a merger that some market data for individual production or sales areas within a large market might not be as readily available. It can-

not be concluded, however, that parties in the Corpus Christi area will be seriously handicapped in their respective activities because of this.

As already described, the Corpus Christi area, along with the other regulated areas under consideration, is very much a part of a large common market for producers and handlers. The opposing Corpus Christi handler himself is in competition with at least two handlers regulated under the San Antonio order. The handler also depends upon the proponent cooperative association to regularly balance his milk supplies as his supply from independent producers fluctuates from month to month. As indicated, the cooperative's balancing operations for one market generally affect the returns of producers in other markets.

A number of parties filed exceptions to the recommendation that the several orders in southern Texas be merged with other Texas orders. Such parties included the handler just referred to, a handler and two producers located in the San Antonio area, and a cooperative association and nine producers supplying milk to the Corpus Christi market. A basic contention of most of these parties was that the six-market merger would result in a lower blend price to those producers whose milk is now pooled under the southern Texas orders. It was claimed that this could jeopardize the milk supply for southern Texas and result in handlers in that area having to rely on milk supplies from the northern part of the State.

Any merger of orders normally can be expected to result in some change in the usual level of blend prices received by various groups of producers. As is the case here, this is because of differences in the Class I utilizations of the markets involved. As described earlier, the reasons for these different utilizations are in part the basis for the merger. The reserve milk supplies being carried in certain markets have resulted in relatively higher blend prices to producers in the other markets. The fact that returns to certain producers will be lowered cannot be an overriding consideration as to which orders, if any, should be merged.

Only time will tell whether the merger will result in a different level of production and allocation of supplies within the various parts of the Texas market. Should experience show that handlers are having difficulty in procuring adequate milk supplies, this problem may be reviewed at a later hearing. It should be noted, however, that inadequate milk production in a local area does not necessarily mean that the Class I price for that area should be increased. If milk can be procured from distant areas at that price, a price increase for the local area would not be in the public interest. From the standpoint of the most efficient allocation of agricultural resources, the Class I price for an area, such as the present Corpus Christi market, should be no higher than is necessary to attract an adequate supply of milk, either from local producers or distant sources.

The handler and certain producers in the Corpus Christi market contended in their exceptions that there is not a significant interrelationship between that market and the other Texas markets to be merged. The handler claimed that a merger of the Corpus Christi market with others cannot be justified unless this market is closely related to each of the other markets involved.

In the case of overlapping distribution areas of handlers, the intermarket competition is less extensive for Corpus Christi handlers than for handlers in some of the other markets under consideration. Nevertheless, in September 1973, seven out-of-area handlers were selling fluid milk in the Corpus Christi market. They were competing in that area with five Corpus Christi order handlers. The record does not indicate the proportion of the fluid sales in the market by the out-of-area handlers.

With respect to milk procurement, data indicate that in May 1973 Corpus Christi handlers received producer milk from 16 counties in which there were 3 or more Corpus Christi producers. From only six of these counties was the total milk production in the county shipped to the Corpus Christi market. In the case of the other 10 counties, milk was shipped from each county not only to Corpus Christi handlers but to one or more of the other regulated markets as well. The 105 Corpus Christi producers in those 10 counties at that time represented one-half of the producers on the market in May 1973. This does not support the contention that the Corpus Christi milkshed does not overlap to a significant degree with the milksheds of other markets. Also, there is little basis under this circumstance for the contention that production costs of Corpus Christi producers are significantly different from those of other order producers.

It is recognized that the Corpus Christi market has little intermarket relationship with some of the other markets to be merged. An extensive interfacing of one market with each of the other five markets is not necessary, however, to justify the six-market merger. For the reasons already described, separate orders for the several areas under consideration are no longer compatible with the current marketing practices in these regulated areas.

In the exceptions, it was claimed that the balancing function that the merger proponent is performing for the Texas market is one that the cooperative created and assumed and that the related financial burden to its members should not be shared with nonmembers through the merger of orders. The involvement of proponent's market balancing activities on a regional basis has already been described. It should be recognized at this point that the proponent cooperative is the major supplier of milk in the Texas market and that this in itself tends to impose upon it the major balancing function of the market.

Many handlers in Texas, especially in the southern portion of the State, receive only enough milk at their distributing

plants to meet their fluid requirements. These requirements change from day to day and season to season. Handlers arrange for the major cooperative to supply them with milk at the time and in the quantities needed. Some handlers purchase their full supply from the cooperative while others receive some milk directly from producers and supplemental supplies from the cooperative. In both situations, the cooperative assumes the responsibility of disposing of any milk a handler does not need. Frequently, one handler may not need milk on a particular day while some other handler may need an additional quantity. In this situation, the cooperative will take the milk that regularly goes to the first handler's plant and deliver it to the second handler's plant. This is an efficient way of handling the milk and maximizes the Class I utilization of producer milk on the market. If no one needs the milk that is excess to a handler's needs, the cooperative must dispose of the milk through its manufacturing plants.

The record indicates that it is not unusual for Corpus Christi handlers to receive only enough milk directly from producers to fulfill their fluid requirements during the flush production months and then supplement these supplies with purchases from the proponent cooperative during the other months of the year. It is necessary under these circumstances for the cooperative to shift supplies among the various markets to meet the variable demands of Corpus Christi handlers. During some months of the year, it must draw on its reserve milk supplies associated with the North Texas and South Texas markets, while in other months it must transfer milk that is in excess of Corpus Christi handlers' needs to its manufacturing plants regulated under the North Texas and South Texas orders.

The handler excepting to the merger of the Corpus Christi order pointed out that the Corpus Christi market is a deficit market and that nonmember producers are reluctant to increase their production because they do not have adequate local facilities available to handle their surplus milk. Thus, exceptor recognized the necessary balancing function performed by proponent cooperative in making additional milk supplies available when needed and handling the excess supplies of milk associated with the Corpus Christi market.

The cooperative proposing the merger urged that the merged order continue the provisions of the North Texas order except for certain modifications. The order adopted herein generally carries out this concept. The North Texas order provisions have been appropriate for achieving the ends sought by the regulatory plan for the North Texas area. Many of these provisions are essentially the same as corresponding provisions in the other five orders included in the merger. On the basis of the hearing evidence, it is found that the North Texas provisions,

with certain modifications, will be appropriate for achieving orderly marketing conditions in the proposed Texas marketing area. Only the significant modifications will be dealt with in this decision.

The order adopted herein continues the use of the part number for the present North Texas order, Part 1126. The amended Part 1126, upon issuance, would supersede Parts 1121, 1127, 1128, 1129 and 1130.

Although the present six orders would no longer exist upon effectuation of the Texas order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures, which would need to be carried out after the merger date, include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obligations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

3. Expansion of the merged marketing area. All territory now within the defined marketing areas of the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio and South Texas orders should be included in the marketing area of the merged order. The Texas marketing area also should include all of the territory within the 22 counties that contain the cities, towns and Air Force base that now comprise the Central West Texas marketing area. It also should include 35 additional Texas counties that presently are not part of any Federal order marketing area. All territory occupied by government (municipal, State, or Federal) reservations, installations, institutions or other establishments, if any part thereof is within any of the designated counties, as well as all piers, docks, and wharves, including craft moored thereat, that are a part of these counties, likewise should be a part of the Texas marketing area.

The adopted marketing area consists of 155 Texas counties with a total population of just under 9.5 million (based on the 1970 census). This marketing area represents a contiguous geographical area in which handlers who would be regulated by the merged order have most of their fluid milk sales. No new plants would be brought under regulation through the area expansion proposed herein.

The present Central West Texas order designates 32 cities and towns and the Abilene Air Force Base as the defined marketing area for that order. These populated areas are located within the

following 22 counties throughout the central and western portions of Texas:

Brown.	Haskell.
Coleman.	Howard.
Comanche.	Jones.
Dawson.	Knox.
Eastland.	Midland.
Ector.	Mitchell.
Fisher.	Nolan.
Palo Pinto.	Stephens.
Runnels.	Stonewall.
Scurry.	Taylor.
Shackelford.	Tom Green.

As advocated by the merger proponent, the merged marketing area should include all territory in these 22 counties rather than just certain cities and towns. In all but four counties, about 25 percent or more of the population resides outside the regulated area in each county. It is customary for handlers to distribute milk to available outlets throughout these counties rather than just in the regulated areas. Defining the marketing area in what is now the Central West Texas market on the basis of county boundaries will have no different regulatory effect on handlers.

The 35 additional unregulated Texas counties that should be added to the combined marketing area are:

Andrews.	Kent.
Aransas.	King.
Bee.	Lavaca.
Borden.	Lee.
Burleson.	Leon.
Calhoun.	Martin.
Callahan.	Milam.
Coke.	Mills.
De Witt.	Refugio.
Fayette.	Robertson.
Foard.	Sterling.
Glasscock.	Throckmorton.
Goliad.	Victoria.
Gonzales.	Willacy.
Hamilton.	Wilson.
Jack.	Wise.
Karnes.	Young.
Kenedy.	

Inclusion of these counties in the marketing area was proposed by the merger proponent. The cooperative's witness indicated that such counties are a part of the sales area of handlers now regulated by the six orders and thus should be within the defined marketing area.

Of the 35 counties, 19 (Aransas, Bee, Burleson, Calhoun, De Witt, Fayette, Goliad, Gonzales, Karnes, Kenedy, Lavaca, Lee, Leon, Milam, Refugio, Robertson, Victoria, Willacy and Wilson) are virtually surrounded by one or more of the marketing areas for the Austin-Waco, Corpus Christi, North Texas, San Antonio and South Texas orders. Several handlers indicated that they had sales in one or more of these unregulated counties and that all of their competitors in these counties are regulated under one of the six orders proposed for merger. Although two distributing plants are located in these unregulated areas (at Gonzales and Victoria), both are regulated under the South Texas order. With a merger of the six orders, all sales in the 19 counties would be by

handlers regulated under the same order.

It is reasonable in this circumstance to "block-in" the marketing area by including these 19 counties. Providing for a contiguous marketing area in which handlers that would be regulated by the order have most or all of the fluid sales will remove the necessity of handlers maintaining separate records of out-of-area sales in these counties. Such records are necessary to determine if a plant has met the minimum in-area route disposition requirement of the order.

For similar reasons, the remaining 16 of the 35 counties described earlier likewise should be a part of the Texas marketing area. Of the 16 counties, all but Wise County border on those counties in which the regulated cities and towns comprising the Central West Texas marketing area are located. Wise County borders on the North Texas marketing area. Ten of these counties (Andrews, Martin, Borden, Kent, King, Foard, Throckmorton, Young, Jack and Wise) form a long, narrow geographical area that separates the Lubbock-Plainview and Red River Valley marketing areas from the Central West Texas area. Glasscock, Sterling, Coke and Callahan Counties are generally surrounded by regulated areas in the Central West Texas market. Hamilton and Mills Counties are nearly encompassed by the Central West Texas, North Texas and Austin-Waco marketing areas.

Handlers who would be regulated by the merged order are the principal distributors of milk in these 16 counties. Although some sales in the counties bordering on the Red River Valley and Lubbock-Plainview marketing areas emanate from these neighboring regulated markets, there is no indication that the inclusion of such counties in the Texas marketing area would alter the pooling status of the other order plants making such sales. As indicated earlier, the inclusion in the marketing area of those counties that are a definite part of the sales area of regulated handlers will obviate the need for such handlers under the merged order to maintain out-of-area sales records.

In addition to the areas discussed above that should be a part of the marketing area, the merger proponent also requested the inclusion of an additional 48 Texas counties and the City of Texarkana, Arkansas. The 48 counties are:

Atascosa.	Kerr.
Bandera.	Kimble.
Blanco.	Kinney.
Bowie.	La Salle.
Brewster.	Llano.
Cass.	Loving.
Concho.	Mason.
Crane.	Maverick.
Crockett.	McCulloch.
Culberson.	McMullen.
Dimmit.	Medina.
Edwards.	Menard.
Frio.	Pecos.
Gillespie.	Presidio.
Irion.	Reagan.
Jeff Davis.	Real.
Jim Hogg.	Reeves.
Kendall.	San Saba.

Schleicher.
Starr.
Sutton.
Terrell.
Upton.
Uvalde.

Val Verde.
Ward.
Webb.
Winkler.
Zapata.
Zavala.

This portion of the cooperative's marketing area proposal is denied.

Of these 48 counties, all but Bowie and Cass Counties are located in the southwestern portion of Texas. The 46 counties cover a vast expanse of land that is sparsely populated. The total population in 1970 was 420,000, with Laredo (69,000), in Webb County, being the only city of any appreciable size.

There is little indication from the record of the extent of distribution in the 46-county area by handlers who would be regulated under the merged order. Although a number of the counties border on the southern and western fringes of the Central West Texas, Austin-Waco, San Antonio and Corpus Christi marketing areas, most of the 46-county area in southwestern Texas is a substantial distance from the distribution centers of the markets proposed for merger. One can surmise that handlers in the regulated markets extend their sales into the nearby unregulated counties. The record is completely lacking, however, as to the sales patterns in both the neighboring counties and the more distant unregulated areas. Moreover, it is probable that a major part of the fluid sales in the westernmost counties of Texas is by handlers regulated under the Rio Grande Valley order. There apparently are no unregulated sales in these counties.

There is no indication that failure to include the 46 counties in the merged marketing area will result in disorderly marketing conditions for regulated handlers or the producers supplying them with milk. Any affirmative action concerning these counties should be based on a more conclusive record.

Bowie and Cass Counties are located in the northeasternmost part of Texas. The City of Texarkana is partly in Bowie County and partly in the State of Arkansas.

The inclusion of these unregulated areas in the marketing area, as urged by the proponent cooperative, would result in the full regulation of two distributing plants at Texarkana, Texas. Such plants are now partially regulated distributing plants under the North Texas order by virtue of their limited fluid sales in the North Texas marketing area. One plant is also a partially regulated distributing plant under the Central Arkansas order.

Proponent claimed that full regulation of these plants is necessary to assure competitive equity between presently regulated handlers and the Texarkana plants with respect to fluid sales in overlapping sales areas. It was contended that the Texarkana plants are buying milk not on a classified use basis but rather at a "flat" price substantially below the Class I price applicable to regulated handlers. Proponent claimed that in view of the high Class I utilization at these plants this cost for raw

milk supplies gives the plants a significant price advantage over competing regulated handlers on their Class I sales.

The regulation of the Texarkana area was opposed by the operators of the unregulated plants. Opponents contended that disorderly marketing conditions do not exist in the area. Also, they claimed that their supply sources and sales areas are more closely associated with the State of Arkansas and that the regulation of the Texarkana area, if at all, should be under the Central Arkansas order.

Regulation was opposed also by a dairy farmer who delivers milk to one of the Texarkana plants. He believed that regulation would not be beneficial to local dairy farmers because the order probably would result in lower returns to such farmers. He indicated his position reflected the views of most of the other dairy farmers supplying this plant.

The record supports proponent's contentions regarding the purchase arrangements for milk at the Texarkana plants. The prices received by proponent between January 1972 and June 1973 for monthly deliveries to one of the plants ranged from 24 to 87 cents per hundredweight under the North Texas Class I price applicable at Texarkana. Farm prices reportedly paid by the other plant during January through October 1973 averaged 45 cents under the order Class I price. At the same time, both plants have a very high Class I utilization of milk.

It is difficult to conclude, however, that this lower cost for Class I milk at the Texarkana plants makes it imperative that the plants be fully regulated under the merged order and subject to classified pricing. The only areas in which the Texarkana plants and Texas regulated handlers have any significant overlapping of fluid sales are the counties of Red River and Morris in the North Texas marketing area. Unregulated sales in Red River County are an estimated 60 percent of the total fluid sales in that area. In Morris County, unregulated sales make up only 8 percent of the total. Neither of these counties is heavily populated. With respect to such unregulated sales, the Texarkana plants pay to the North Texas producer-settlement fund the difference between the Class I price and blend price under the North Texas order. This places the Texarkana plants on essentially the same cost basis under the order with respect to their "in-area" Class I sales as regulated plants.

The only other areas of overlapping sales are the unregulated areas of Texarkana and the counties of Bowie and Cass. In these areas, Texas regulated handlers have no more than 2 percent of the total Class I sales, with such sales representing a very small proportion of their total fluid sales.

These sales patterns do not represent any significant degree of competition between the Texas regulated plants and the Texarkana plants. Actually, the unregulated plants have greater competition with plants regulated under the Central Arkansas order than with Texas regulated plants. These unregulated plants

distribute milk in 14 Arkansas counties, one of which is in the Central Arkansas marketing area. On the basis of this record, it would appear that if Texarkana were to be included in a Federal order marketing area it would be more appropriate to consider its inclusion in the Central Arkansas marketing area. However, this is not the issue before us.

The operator of one of the Texarkana plants proposed that in the event Texarkana and the counties of Bowie and Cass are added to the merged marketing area, thereby causing regulation of the plant, the marketing area should be expanded further to include 10 Arkansas counties that encompass the primary sales area of the plant. These counties are Columbia, Hempstead, Howard, Lafayette, Little River, Miller, Nevada, Pike, Sevier and Union. Since it is concluded that the Texarkana area should not be a part of the merged marketing area, the proposal concerning these 10 Arkansas counties becomes moot and, accordingly, is not considered further in this decision.

Although some of the route disposition of regulated handlers will extend beyond the boundaries of the merged marketing area, it is neither practical nor reasonable to extend the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practical one in that it encompasses the great bulk of the fluid milk sales areas of regulated handlers.

All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a regulated handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chooses to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

4. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants and milk to which the applicable provisions of the order relate.

The following definitions included in the proposed order will serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "plant," "pool plant" and "nonpool plant." Definitions of persons include "producer," "handler," "producer-handler" and "co-operative association." Definitions relating to milk and milk products include "producer milk," "fluid milk product," "fluid cream product," "filled milk" and "other source milk." A number of these definitions were of particular issue at the hearing and are discussed below.

Plant. A "plant" definition should be provided for the purpose of designating the type of milk handling facilities to which the order provisions would apply. A plant would be the land, buildings, facilities, and equipment constituting a single operating unit at which milk or milk products are received, processed or packaged. Separate facilities without stationary storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another would not be a plant. Similarly, separate facilities used as intermediary distribution points in the disposition of packaged fluid milk products would not be plants.

The "plant" definitions in the Corpus Christi, North Texas and South Texas orders provide that milk transferred from one truck to another at reload points must be identifiable as receipts from specific farmers until it is received at a plant. Also, the North Texas and South Texas orders do not preclude reload points from containing storage tanks. The Austin-Waco, Central West Texas and San Antonio orders do not define a "plant."

Under the provisions adopted herein, producer milk would be priced at the plant where it is physically received. It is necessary, then, to have guidelines for determining whether or not certain milk handling facilities should be considered as a plant. It is not intended under this order that facilities used only for the reloading of milk from one tank truck to another be the pricing point for milk so handled. These facilities must be distinguishable, however, from facilities at which milk handled is to be priced.

It is not the usual nature for a reload point to have stationary storage tanks for the holding of milk for one or two days. Rather, it is customary for milk that has been picked up at the farm by several tank trucks to be brought to the reload point and transferred directly to a large over-the-road tank truck for movement to processing plants. Accordingly, the absence of any stationary storage

tanks is a reasonable means of distinguishing a reload facility from a plant.

Situations could arise where the individual producer identity for milk handled at reload points is lost. Some of the milk on a farm pick-up tanker could be reloaded onto an over-the-road tank truck and delivered to a pool plant while the remaining milk on the farm truck is held overnight in a tank truck and perhaps transported to a nonpool plant the next day. In this situation, it is not possible to know which producer's milk was delivered to which plant on which day. It is necessary, nonetheless, for the order to provide for the pricing of the milk of these dairy farmers at a plant location. The reload facility, not qualifying as a plant, cannot be the pricing location in this case for such milk.

As described later in this decision, it is provided that milk picked up at a producer's farm during the month in a tank truck owned and operated by, or under the control of, a handler (including a co-operative association in its capacity as a bulk tank handler) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where the milk is physically received in the following month.

Except for the treatment of milk picked up at a producer's farm in one month that is not delivered to a plant until the following month, the administrative guidelines now in effect in the six markets under consideration, rather than the order provisions suggested by proponent, should be relied upon in applying the order provisions under the milk handling situation just described. These guidelines, which are discussed later in more detail under the heading "Definition of a receipt," are being used by market administrators for a number of orders in applying order provisions to various milk receiving operations. These guidelines provide that under the conditions described above the milk of individual producers would be prorated between the plants at which their commingled milk was received.

Pool plant. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants, supply plants, and cooperative balancing plants that are contained in the attached order would carry out this concept under present marketing conditions.

The "pool plant" definition adopted herein sets forth all of the requirements that a plant must meet in order to be defined as a pool plant. For this reason, definitions of a "distributing plant" and

a "supply plant," as proposed by the merger proponent, are not provided in the attached order. Reference is made in this decision to such types of plants, nevertheless, since the adopted pooling standards relate to plants performing different types of functions in the market.

A requirement common to all types of pool plants is that the plants be approved by a duly constituted regulatory agency for the handling of Grade A milk. The term "regulatory agency," rather than the term "health authority," which has been commonly used in the Texas orders for some time, is a more appropriate term at the present time. The agency responsible for approving a plant for the handling of Grade A milk may not always be designated as a health authority. In some states, for example, this function is the responsibility of the State Department of Agriculture.

The following discussion sets forth the pooling standards that should apply to the several different types of plants. To facilitate the discussion, it is convenient to note at this point that the pooling standards for a distributing plant or a supply plant provide that the plant's required association with the market shall be measured in terms of the proportion of its receipts that is disposed of from the plant. In this case, such receipts should include producer milk that is diverted from the plant to other plants. Although diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of the plant's supply of milk.

A cooperative objected to this pooling standard in its exceptions to the recommended decision. It indicated that a plant operator could decide not to have milk being diverted from the plant by the cooperative included in the plant's receipts. Should this occur with little advance notice, the cooperative claimed, the cooperative might be unable to make delivery arrangements that would keep the milk pooled on the market. The cooperative asked that milk diverted by a cooperative association not be included in any plant's receipts in determining whether a plant has met the order's pooling standards.

Without associating producer milk with some pool plant, the pooling standards are weakened. Such standards are intended to insure that the milk supplies eligible to share in the Class I proceeds in the pool are those that have a reasonable association with the Class I market. Diverted milk that is not associated with a specific plant is, in effect, a "floating" supply of milk that may be used for manufacturing irrespective of the limitations that the pooling standards are intended to place on the amount of milk that may be associated with the pool for other than Class I uses.

It should be noted also that milk diverted to a pool supply plant from a pool distributing plant should not be included in the supply plant's receipts for the purpose of measuring the sup-

ply plant's association with the market. The quantity of milk so diverted would be included in the distributing plant's receipts in order to measure this plant's association with the market. Since such milk would be considered a part of the distributing plant's regular supply, it should not be considered as a receipt at the supply plant for pool plant qualification. If the inclusion of such milk in the supply plant's receipts for pooling purposes resulted in the plant not meeting the shipping standard of the order, the supply plant's manufacturing facilities might not be available to the market. For the same reason, milk diverted to a pool supply plant from an other order plant for manufacturing likewise should not be included in the supply plant's receipts for pooling purposes.

Thus, when referring herein to a plant's receipts used in computing pooling percentages, it is intended that such receipts include producer milk diverted from the plant. Also, it is intended in the case of a supply plant that its receipts not include milk diverted to the plant.

Under the adopted pooling standards, any plant approved for the handling of Grade A milk would be a pool plant if during the month its total route disposition equals 50 percent or more of its Grade A receipts of fluid milk products and its route disposition in the marketing area equals at least 10 percent of such receipts. Two plants of a handler that each meet the 10 percent requirement but not the 50 percent requirement still could qualify as pool plants if the combined route disposition of such plants is 50 percent or more of the combined Grade A receipts at such plants. As under the present orders, route disposition of a plant would be exclusive of any disposition of filled milk.

These pooling standards for distributing plants are basically the same as those proposed by the cooperative association advocating the merger. Except for the unit pooling arrangement contained only in the North Texas order, the adopted standards are the same as those now applicable under the North Texas, South Texas, and Corpus Christi orders. The pooling standards under the Austin-Waco, Central West Texas, and San Antonio orders differ in various respects, most notably with respect to the absence of any total route disposition requirement. There is no indication, however, that the adopted pooling standards would cause any distributing plants now regulated under the six orders to lose their status as fully regulated plants.

The operator of a South Texas distributing plant urged a relaxation of the pooling standards for distributing plants. He proposed lowering the in-area route disposition requirement to 5 percent of total route disposition, and lowering the total route disposition requirement to 30 or 35 percent of the plant's total receipts. Proponent stated that the lower pooling requirements are necessary to impede an unregulated distributing plant operator from distributing relatively small amounts of milk in

the marketing area at unrealistically low prices and thereby disrupt the pricing structure of the entire market.

Requiring that a pool distributing plant dispose of at least 50 percent of its Grade A receipts on routes is consistent with the general supply situation for the area under consideration. Except during the months of seasonally heavy production, milk supplies in Texas are somewhat short relative to the demand in the area for Class I milk. It is essential in this circumstance that available milk supplies in the market be channeled primarily into fluid uses. For this reason, a pool distributing plant in this market should be primarily engaged in the fluid milk business and not in the manufacture of milk products. Accordingly, the proposal to lower the total route disposition requirements to 30 to 35 percent should not be adopted.

An exception to this 50 percent disposition requirement has been applicable for some time under the North Texas order and should be continued under the merged order. A handler who is affected by this provision operates two plants—one at Dallas and one at Fort Worth—that are presently regulated under the North Texas order. The Dallas plant has a very high Class I utilization. The Fort Worth plant does not have sufficient Class I utilization to qualify as a pool distributing plant on the basis of its own performance. However, the two plants qualify on the basis of their combined utilization.

This provision should be limited in its application to only two plants of a handler. With the merger of orders, several handlers will be operating more than two distributing plants under the single order. Without the adopted limitation, such handlers might be encouraged to combine all of their plants into a unit and develop manufacturing operations. As just indicated, milk supplies should be channeled primarily into fluid uses.

A plant distributing less than 10 percent of its receipts inside the marketing area should not be a fully regulated distributing plant under the merged order. Such regulation is not necessary to assure the orderly marketing of milk in the proposed market.

As described earlier in the findings on marketing area, there are two partially regulated distributing plants at Texarkana that distribute milk in the present North Texas marketing area. The operators of these plants pay their dairy farmers somewhat less than the North Texas Class I price for milk distributed on routes. Several witnesses expressed concern that in this situation regulated handlers cannot compete effectively with the Texarkana plants for fluid sales in the marketing area unless the Texarkana plants become fully regulated. For this reason, it was proposed that the distributing plant pooling standards be lowered to the point where even very limited sales in the marketing area from these plants would cause them to become fully regulated.

The two Texarkana plants are the only unregulated distributing plants known to have any association with the proposed Texas market, or expected to have in the future. The record does not indicate that sales in the marketing area by these plants are causing disorderly marketing conditions. Payment provisions applicable to such plants are contained in the attached order to assure that route disposition in the marketing area from the plants is treated in such a way as to minimize any buying advantage on raw milk that these plants might have relative to fully regulated handlers. In these circumstances, a lower in-area sales requirement than that adopted herein is unnecessary, and the proposal for such is denied.

For the same reasons, the proposal by the merger proponent to base the minimum in-area route disposition requirement on the plant's total route disposition during the month rather than on the plant's Grade A receipts should not be adopted. The effect of this proposal would be to lower the in-area sales requirement. As indicated, this is unnecessary under the present circumstances for the maintenance of orderly marketing.

A handler who operates distributing plants regulated under the North Texas and South Texas orders as well as one of the unregulated distributing plants at Texarkana proposed that any distributing plant located outside the marketing area be a nonpool plant. It was proposed that only the portion of the plant's route disposition that is in the marketing area be subject to regulation. The only reason given for the adoption of such a provision was that a similar provision is contained in a New York State milk order that regulates the handling of milk in the Niagara Frontier market.

The essence of this proposal is not whether regulation is to be based on the location of the distributing plant but rather whether full regulation should apply to a plant that has distribution both inside and outside the marketing area. A plant could be located inside the marketing area but exempt from regulation on its out-of-area distribution and the regulatory effect would be the same as under the handler's proposal.

Under the adopted provisions, a plant primarily engaged in the fluid milk distribution business would be a pool plant if it has route disposition in the marketing area equal to at least 10 percent of its Grade A receipts. If the plant's in-area sales are less than this, the plant would be subject to regulation on only its in-area sales. In this latter case, the plant, with its limited degree of association with the regulated market, is not a major competitive factor for fully regulated handlers whose sales are largely or entirely in the marketing area. Thus, the plant need not be fully regulated. However, to minimize any price advantage that the plant might have on the limited in-area sales, the order would require a pool payment on such sales equal to the difference between the order's Class I

and blend prices. As an alternative, the plant could pay its dairy farmers the classified use value for all receipts. These payment arrangements have been applicable under the marketwide pool orders in Texas for many years.

It is necessary, however, that a plant, wherever located, that distributes 10 percent or more of its receipts in the marketing area be subject to full regulation on all of its Class I distribution, including that which is outside the marketing area. If only the plant's in-area sales were subject to order pricing, the operator of the plant could assign any value he might choose to his out-of-area sales. He thereby could reduce the average cost of all his Class I milk below that of fully regulated handlers having all of their Class I sales within the marketing area. Unless his route sales both inside and outside the marketing area were fully regulated under the order, the plant operator in effect would not be subject to effective price regulation. It would not be possible in this circumstance to enforce uniform class prices with respect to those handlers who are in substantial competition with one another. The absence of effective pricing would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order.

In his exceptions to the recommended decision, the proponent handler opposed the Acting Administrator's conclusions on this issue. The handler's exceptions provide no basis, however, for taking a different position on this matter.

Any plant approved for the handling of Grade A milk that does not qualify as a pool distributing plant should be a pool plant in any month in which 50 percent or more of its receipts of Grade A milk from dairy farmers and cooperatives acting as bulk tank handlers is transferred in the form of bulk fluid milk products to pool distributing plants. A plant that was pooled on this basis during the month of November should be required in December, however, to ship only 15 percent of its receipts to qualify as a pool plant that month. Similarly, a 15 percent shipping requirement should apply in August in the case of a supply plant that was pooled in the preceding month of July. A plant which was pooled by virtue of its shipments in each of the months of September through January should be accorded pool plant status during the following months of February through July regardless of its shipments to distributing plants during such months.

A supply-type plant that does not otherwise qualify as a pool plant under any order should be permitted to be a pool plant under this order in any month in which 50 percent or more of its receipts of Grade A milk from dairy farmers and cooperatives acting as bulk tank handlers is transferred in the form of bulk fluid milk products to distributing plants fully regulated under Federal milk orders, if the quantity transferred to distributing plants pooled under this order exceeds the quantity transferred to distributing plants regu-

lated under any one of the other Federal orders. A plant pooled on this basis during the month of November should be required in December to ship only 15 percent of its receipts to qualify as a pool plant. However, such shipments must be to distributing plants pooled under the Texas order. A similar 15 percent shipping requirement should apply in August in the case of a plant that was pooled in the preceding month of July. A plant which was continually pooled in each of the months of September through January should be accorded pool plant status during the following months of February through July regardless of its shipments to distributing plants during such months. A plant qualifying on this basis that was not pooled in each of the months of September through January should be permitted to be pooled on the basis of this 50 percent combined shipping concept during the months of February through July only if the plant was pooled in at least three of the preceding months of September through January.

Several different proposals were made by producer groups and proprietary handlers regarding the appropriate pooling standards for supply plants. The cooperative proposing the merger urged that the pool supply plant provisions of the North Texas order, with certain modifications, be continued under the merged order. The North Texas order now provides that a supply plant be pooled during any month in which 50 percent or more of its receipts is shipped to pool distributing plants and assigned "reserve supply credit."² A supply plant also is pooled during any month in which 15 percent or more of its receipts is moved to pool distributing plants and assigned reserve supply credit if such month is the last month of a period of four or less consecutive months during which the plant shipped an average of 50 percent or more of its receipts to pool distributing plants and to which reserve supply credit was assigned. A supply plant that is pooled during each of the months of September through December under the North Texas order is afforded automatic pool plant status for the following months of January through August, although in August it must ship at least 15 percent of its receipts of Grade A milk and have reserve supply credit assigned to it.

Proponent would modify these provisions, however, to include December as a month in which automatic pool plant status applies and add January as a qualifying month. The cooperative indicated that because of the holiday season and the closing of schools the demand for milk in December is less and shipments of milk to distributors by supply plants should not be required that month. Proponent contended that in

² "Reserve supply credit" is a reflection of how much Class I utilization is available at a distributing plant for assignment to milk received from supply plants. Receipts directly from farms have first priority on the distributing plant's Class I utilization.

January, however, demand for milk is strong and supply plant shipments are needed.

The cooperative also proposed that any supply plant having automatic pool plant status during certain months should not be able to pool during any of such months more than 150 percent of the monthly average quantity of milk it pooled during the applicable qualifying months. Proponent stated that this would prevent the operator of such plant from adding producers during the flush production months when there is not a need for additional milk on the market.

A distributing plant operator regulated under the South Texas order and a cooperative association that operates a supply plant proposed that a supply plant should ship during each of the qualifying months in the fall at least 75 percent of its receipts to pool distributing plants if it is to have automatic pooling status during the flush production months. Also, they would delete the North Texas order provision that allows a supply plant to be pooled on the basis of limited shipments during the month if shipments during a given period encompassing such month average at least 50 percent of the plant's receipts.

These parties testified that the more stringent pooling requirements are necessary to assure that a supply plant is not associated with the market for purposes of "loading" the pool. They maintained that milk production in Texas is generally adequate for supplying consumers in the proposed marketing area and that the higher pooling standards are necessary to discourage the association of supply plants outside the State with the Texas market.

A distributing plant operator regulated under the Corpus Christi order testified that only supply plants located in Texas should be afforded the opportunity to obtain automatic pool plant status. The handler indicated that this is necessary to assure that a supply plant has a meaningful association with the market.

Four supply plants are regulated under the separate orders, each of which is operated by a cooperative association. Plants at Blum and Houston, Texas, are regulated under the South Texas order. A plant at Falfurrias, Texas, is pooled under the Corpus Christi order, while a plant at Wichita, Kansas, is regulated under the San Antonio order. These plants serve the important function of assembling milk supplies from producers' farms for shipment to pool distributing plants.

Supply plant pooling standards for the merged order should assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. The pooling standards adopted herein are designed to provide this assurance.

The shipping requirements set forth in the attached order, except for the months of August and December, are the same as the minimum shipping requirements now applicable in the separate

orders under which the existing four pool supply plants are now regulated. There is no indication that the present 50 percent standard has not served the intended purpose of identifying an appropriate association of supply plants with the market and insuring sufficient milk supplies for distributing plants. In fact, shipments from these plants to pool distributing plants have not been limited to the minimum quantities and months required for pooling such plants. Continuation under the merged order of the 50 percent shipping requirement should assure that supply plants pooled under the order are adequately associated with the market.

Notwithstanding, the demand for supply plant milk is not as great in some months as others. To avoid unnecessary, as well as uneconomical, movements of milk to the market merely to assure the continued pooling of a plant, the merged order should require in certain months only limited shipments to distributing plants, and in other months no shipments, for those plants with an established association with the market.

If a supply plant is pooled under the order in each of the months of September through January, it should be designated as a pool plant for the following months of February through July irrespective of its shipments to pool distributing plants or plants regulated under another order. The plant should be accorded nonpool plant status during this February-July period, however, if such status is elected by the plant operator or if the plant loses its approval to handle Grade A milk.

The demand for supply plant milk is usually less during the months of seasonally heavy milk production than during the other months. Also, demand tends to drop during the summer with the closing of schools. With nearby milk supplies generally more adequate during the February-July period relative to consumer demand, distributing plants need not rely as much on supply plants for a full supply of milk. Thus, no minimum shipments should be required in the months of February through July for a plant that was a pool supply plant during the qualifying months.

Although it was proposed by the merger proponent that August and December be included in the months of automatic pooling, but with limited shipments required in August, it is concluded that a pool supply plant should be required to ship at least 15 percent of its receipts to pool distributing plants in both months. This lower shipping percentage should apply only to those plants that were pooled during the immediately preceding month and should reflect only shipments to pool distributing plants. Unless this procedure is followed a plant could become pooled on the market on an opportune basis with little or no commitment of milk supplies for fluid use. The plant's dairy farmer suppliers would share, nevertheless, in the Class I proceeds of the fluid market.

During the latter part of August, the opening of schools causes an increase in

demand for fluid milk. At the same time, milk production is beginning its seasonal decline. The demand for supply plant milk in August is thus somewhat greater than in the earlier months of automatic pooling.

The situation in December, although nearly the reverse of the August situation, still results in about the same need for supply plant milk. In December, the demand for milk is reasonably strong during the first part of the month. Demand falls off considerably during the latter part of the month, however, with the closing of schools and the holiday season. Also, handlers tend to reduce their milk inventories to a minimum on December 31.

Proponent maintained that no shipments should be required from pool supply plants in December because of the decline in the demand for milk. However, the total demand for milk in December is as great as it is in August. For the months of August 1972 and 1973, the percent of producer milk used in Class I in the six markets combined was 73 and 75 percent, respectively. For the following December of each year, the comparable utilization percentage was 78 and 74 percent, respectively. Also proponent's deliveries of member milk to distributing plants in the six markets combined in December 1972 were 86 percent of its total member milk on these markets, while in August 1973 such deliveries were 81 percent of the total.

It is also appropriate to pool under the merged order in any of the months of September through January a plant not otherwise meeting the pooling requirements of this or any other Federal order if its combined shipments to distributing plants fully regulated under Federal orders are 50 percent or more of its receipts from dairy farmers and cooperatives in their capacity as bulk tank handlers and greater shipments are made to distributing plants regulated under this order than to distributing plants regulated under any one of the other Federal orders.

The cooperative association advocating the merger operates a plant located at Hillsboro, Kansas, which for several years had been regulated as a cooperative balancing plant under either the North Texas or South Texas order. As described later in this decision, the pooling provisions adopted herein would preclude the pooling of this plant as a cooperative balancing plant under the merged order. On the basis of its present operations, the plant also would not meet the supply plant pooling standards adopted herein under which 50 percent of the receipts must be shipped to distributing plants in the Texas market.

Because of its location some 400 miles from the adopted marketing area, the Hillsboro plant functions essentially as a supply plant rather than as a balancing plant. Most of the Kansas production that is delivered to Texas distributing plants is received first at the Hillsboro plant. There it is reloaded onto other trucks for delivery to the market. This plant also supplies substantial quantities

of milk to distributing plants regulated under other Federal orders, e.g., Kansas City, Memphis, Oklahoma Metropolitan, Central Arkansas, Texas Panhandle, Fort Smith, and Wichita. During the months of September, October, and November 1972 and January 1973 for example, the plant's monthly shipments to distributing plants regulated under these particular orders plus the six orders to be merged ranged from 88 to 99 percent of the plant's receipts of producer milk. Producer milk not needed by distributors is retained at the plant for manufacturing.

The Hillsboro plant is relied upon for furnishing milk to Texas distributing plants. This is particularly so during the fall months when production normally declines and milk must be imported into Texas from outside production areas. During the months of September, October and November 1972 and January 1973, shipments from this plant to distributing plants that would be regulated under the merged order ranged from 22 to 66 percent of its producer receipts. To assure the availability of such milk, the cooperative operating the plant regularly maintains Texas health approval for a number of its Kansas members and the Hillsboro plant.

In view of these supply arrangements that have existed for several years, it must be recognized that the Hillsboro plant serves an important supply plant function for this market even though its shipments to Texas distributing plants usually are somewhat less than 50 percent of its Grade A receipts. When total shipments from this plant meet the 50 percent shipping requirement (based on its deliveries to all Federal order markets), this plant should be pooled, nevertheless, under the Texas order if the plant has the greatest association with the Texas market. Even though shipments to all Federal order markets would be used for qualifying purposes, the 50 percent standard would assure that the plant is performing a supply function. Such a plant would not be able to associate with the market for other than fluid uses any greater proportion of its receipts than supply plants that ship only to Texas distributing plants. Qualifying shipments should be limited in this case to those made to distributing plants regulated under Federal orders. Only under this arrangement can there be any reasonable assurance that the plant is basically supplying milk for fluid uses.

It also must be recognized that to assure orderly marketing in Texas some reasonable means must be provided to accommodate the pooling in the Federal order system of Grade A milk supplies that are available for fluid use in several markets. Otherwise, such supplies could become a disruptive factor in Federally regulated markets such as the combined Texas market. It is presumed that such milk will be pooled under one order or another irrespective of the uneconomic adjustments that may need to be made by a cooperative in the handling of milk. For example, the Hillsboro plant pre-

sumably could qualify as a pool supply plant under the Texas order if the cooperative were to make the necessary Class I outlets available by taking the Texas production that normally would be going directly to distributing plants in Texas and moving it instead to the cooperative's Muenster and Sulphur Springs plants for manufacturing. This would be an uneconomic handling arrangement and it should not be encouraged.

Over the years the cooperative operating the Hillsboro plant has closed some of its smaller, less efficient, supply-type plants and has consolidated the milk supplies in a few large plants that operate much more efficiently. These plants (e.g., Hillsboro) perform the same vital supply function as the smaller plants did previously. In the case of the Hillsboro plant, it performs this function for several markets. To the extent that such a plant has a greater association with this market than it does with any other market, it is appropriate that this order permit the pooling of such a plant if it delivers at least 50 percent of its Grade A receipts to distributing plants regulated under Federal orders. This pooling provision will recognize the uniqueness of the Hillsboro operation and at the same time will provide definitive standards for the pooling of any other plant under similar circumstances. This will promote the orderly and efficient marketing of milk in the merged marketing area.

In recognition of the reduced performance requirements prescribed for supply plants in the months of August and December and to insure the continuing integrity of regulation, it is appropriate to require that the prescribed 15 percent shipping requirement to distributing plants under this order must be met and in each such month the plant may pool under such reduced shipment only if the plant held pool status in the immediately preceding month. Such a plant which was continuously pooled under the merged order in the months of September through January should be accorded automatic pooling status in the months of February through July under the identical terms as that accorded regular pool supply plants.

Because the shipments made to the market from such a plant can be substantially less than the 50 percent required for regular supply plants, it is not practical to permit a plant to otherwise pool under the combined shipping concept during the flush production months unless such plant was pooled in at least 3 of the preceding months of September through January. Only in such circumstances will the plant have demonstrated an association with the market sufficient to permit pooling during the flush months under the combined shipping concept. Unless these safeguards are prescribed, it is likely that the merged order would provide a haven for pooling that milk not otherwise qualifying for pooling under other orders.

In their exceptions to the recommended decision, a South Texas handler and a cooperative association contended that the adopted pooling standards for plants, and particularly those that might apply to the Hillsboro plant, would continue to permit the association of unneeded milk supplies with the Texas market. Exceptors claimed that although the present pooling standards would be changed, the same plants and milk supplies now pooled under the individual orders would still be pooled under the merged order. It was their position that these milk supplies are substantially in excess of the Class I needs of the Texas market and that no more than a 20 percent reserve should be carried in the pool. They reiterated their position taken at the hearing that the Hillsboro plant has been inappropriately pooled in Texas and that the milk supplies associated with the plant actually have more association with other markets and should not be pooled under the Texas order.

As already set forth herein, it is concluded that the Hillsboro plant should not be permitted to be pooled as a cooperative balancing plant since it actually operates in the customary manner of supply plants. The present supply plant pooling standards are modified, however, to recognize the particular operations of the Hillsboro plant relative to the supplying of milk to other markets as well as to the Texas market. There is no certainty, of course, that this plant will meet these standards. However, should the Hillsboro plant or any other plant meet such standards, the plant would be reasonably associated with the Texas market. It is reemphasized that such a plant would not be able to associate with the market for other than fluid uses any greater proportion of its receipts than supply plants that ship only to Texas distributing plants.

The pooling standards adopted herein are not designed to necessarily lessen the amount of milk that may be associated with the area under consideration. The milk supplies now being pooled under the six orders are in reasonable balance with the Class I needs of the markets. During the 1972 and 1973 short-production months of September, October and November, for example, producer receipts in the present six-market area were 117 percent and 121 percent, respectively, of the total Class I use of handlers. This is at least the minimum amount of reserve milk that customarily needs to be associated with the Texas market. This means, of course, that on an annual basis the market reserve will be somewhat greater because of the normal seasonal increase in milk production without a corresponding increase in demand.

Certain transitional provisions are needed in the merged order to assure that supply plants that have demonstrated an adequate association with the individual markets included in the merger will be eligible under the merged order for automatic pooling through July 1975, as well as for limited shipping privileges in August 1975. For this pur-

pose, such eligibility shall be deemed to have been established if the plant was a pool supply plant under any of the six orders to be merged (or any combination thereof) during the months of September, October and November 1974. Each of the six orders now bases automatic pool plant status on at least these three months.

The adoption of proposals to limit automatic pool plant status to only those supply plants that are located in Texas or that shipped at least 75 percent of their receipts to distributing plants during the qualifying months would result in an inconsistent set of pooling standards for supply plants associated with the proposed Texas market. Any supply plant shipping no more than 50 percent of its receipts to distributing plants regulated under any order during the qualifying months could be pooled under the order in such months. At the same time, however, supply plants desiring automatic pooling status would have to ship at least 75 percent of their receipts during the same months. The purpose of the pooling standards for supply plants is to assure that such plants associated with the market will make milk available to distributing plants for fluid use. There is no need during the qualifying months to have certain supply plants make 75 percent of their milk available while other plants make 50 percent available.

The point could be raised, of course, that in this case all supply plants should be subject to the proposed 75 percent shipping requirement. There was no demonstration on the record, however, that a shipping standard at this level is necessary to assure that supply plants will make adequate quantities of milk available to distributing plants for fluid use.

Whether located inside or outside Texas, any supply plant that has met the minimum shipping requirement during the qualifying months has demonstrated a bona fide association with the market. If a plant has established this association with the market, there is no basis for precluding automatic pooling status for the plant just because it may be located outside Texas.

As noted earlier, a supply plant that has been pooled under the San Antonio order for an extended period of time is located at Wichita, Kansas. This plant has had a regular association with the market. If it continues to have the same association with the proposed Texas market, there is no reason to deny this plant automatic pooling status just because it is located outside Texas.

Continuation of the North Texas order provision that allows a supply plant to be pooled on the basis of shipments during the month equal to 15 percent of its receipts if shipments during a given period encompassing such month average at least 50 percent of the plant's receipts is not necessary under present market conditions. Proponent urged its adoption under the merged order but did not relate the need for this provision to any current market situation.

This provision was added to the North Texas order in 1955 to accommodate a situation involving a number of producers in Missouri and Arkansas and the pooling of their milk on the North Texas market through a supply plant at Monett, Missouri. These producers had a different seasonal variation in production of milk as compared with other producers on the market and it was concluded that because of this the Monett plant would have difficulty meeting the 50 percent pooling requirement during each of four qualifying months even though the milk from these more distant producers was needed to meet the market's year-round fluid requirements.⁹

Although the Monett plant is not on the market, there is no indication that the seasonal variation in milk production by other distant producers differs significantly from the seasonal variation of nearby producers or that any of the present supply plants would have difficulty meeting the 50 percent pooling standard during each of the qualifying months. For the months of August and December, the order already would require qualifying shipments of only 15 percent if the supply plant was pooled in the previous month. Thus, the only time such a provision could have any practical application would be during the months of February through July. These are the months when the demand for supply plant milk is expected to be the lowest and the order should not contain a provision that would encourage the pooling of new supply plants during such months by lowering the pooling standards.

The proposal to limit the quantity of milk a supply plant with automatic pooling status could associate with the market during the months of February through July should not be adopted. The purpose of the proposal is to discourage the adding of milk to the pool during the flush production months when usually it would not be needed for fluid use. This could be easily done by a supply plant with automatic pooling status since it would not have to meet any shipping requirements in these months. Although this concept has merit, it is concluded that the attachment of unneeded supplies to the market can be precluded more effectively through the use of a "dairy farmer for other markets" provision. This is described in detail in the discussion on the definition of a "producer."

Qualification as a pool supply plant should not be contingent on the assignment of "reserve supply credit" to the plant's shipments to pool distributing plants. Such a requirement is now contained in the North Texas order and was proposed for the merged order. The other five orders under consideration do not establish a supply plant's pool status on this basis.

"Reserve supply credit" is, in essence, a reflection of how much need there is at

a pool distributing plant for supply plant milk. It is only through shipments to a pool distributing plant, of course, that a supply plant can become associated with the market. Under this provision, any supply plant that can't find a Class I outlet for nearly half of its Grade A receipts from farms cannot qualify as a pool plant.

Reserve supply credit is determined monthly by subtracting from the quantity of Class I milk at the distributing plant any Class I sales to other pool plants and then subtracting a quantity of milk equal to 85 percent of the milk received from producers and from cooperatives acting as bulk tank handlers. Any remaining Class I use is the reserve supply credit available for assignment to supply plant shipments. Only those shipments to which such credit is assigned can count toward qualifying a supply plant for pool plant status.

There is little basis under present conditions for including the reserve supply credit provision in the merged order. The supply plants now regulated under the separate orders are not subject to a reserve supply credit provision. There is no indication, however, that these plants do not have a bona fide association with the markets where regulated. Moreover, the location adjustment provisions adopted herein will have essentially the same impact on a supply plant's ability to qualify as a pool plant as does the reserve supply credit. Under these provisions, supply plant operators would be granted a transportation credit basically just on those shipments to distributing plants that are needed for Class I use. As under the reserve supply credit provision, receipts at a distributing plant directly from producers or a cooperative acting as a bulk tank handler have first priority on the distributing plant's Class I utilization. Thus, the location adjustment provisions will tend to result in supply plant shipments being made only when there is a Class I outlet for the milk.

The merged order should provide for the pooling of a "balancing" plant operated by a cooperative association if during the month 60 percent or more of the milk of the cooperative's member producers is physically received at pool distributing plants from farms or by transfer from the cooperative's balancing plants for which pool status is requested. The 60 percent requirement should be exclusive of the cooperative's member milk handled through pool supply plants. Such pool status should be limited to those plants that are located in the marketing area and approved by a duly constituted regulatory agency for disposition of Grade A milk in the marketing area. The plant should not be a pool balancing plant if it meets the pooling standards for distributing plants or supply plants under any Federal order.

The cooperative association advocating the merger proposed that the North Texas and South Texas order provisions for pooling a cooperative balancing plant be continued under the merged order, but with certain modifications. The

⁹ Official notice is taken of the Acting Secretary's decision issued September 13, 1955, with respect to the North Texas milk order (20 FR 6969).

orders now provide for the pooling of a cooperative balancing plant if 50 percent or more of the milk of the cooperative's member producers is received at pool distributing plants by transfer from the cooperative's balancing plants or directly from farms. Proponent's modifications would increase the delivery requirement for the months of August through November, January and February to 60 percent and would require that the milk handled at the plant be eligible for disposition in the marketing area.

Proponent indicated that the continued pooling of its balancing plants is essential to the orderly marketing of its member milk and to the assurance of adequate and dependable supplies of milk for handlers. It claimed that such plants perform a balancing function for the market by receiving for manufacture any milk not needed by distributors because of changes in consumer demand, weekend surpluses, or seasonal increases in production and by having available reserve supplies of regulated, Texas-approved milk for shipment to distributors during the short production season or at times of peak demand. Proponent contended that such balancing functions could not be carried out effectively or efficiently if its balancing plants now associated with the individual markets were to operate as pool supply plants or nonpool plants under the merged order.

Other parties urged somewhat more restrictive pooling standards for cooperative balancing plants. A handler under the Corpus Christi order proposed that a pool balancing plant should be located in the marketing area, as now required by the Corpus Christi order. The handler contended that without this requirement out-of-area balancing plants with little or no real association with the market could be pooled under the merged order, thereby dissipating the pool proceeds.

A South Texas distributing plant operator and a cooperative that operates a South Texas supply plant likewise proposed that a pool balancing plant be located in the marketing area. These parties also proposed that the pooling of a cooperative balancing plant be contingent on the cooperative having at least 75 percent of the milk of its member producers delivered to pool distributing plants.

It was the position of these South Texas handlers that the present North Texas and South Texas pooling provisions for balancing plants do not assure that such plants have a meaningful association with the market and that such provisions should not be continued in their present form. The handlers contended that provisions originally intended to permit the pooling of milk legitimately associated with the market have been used in such a way as to add unneeded milk supplies to various Texas markets. They claimed that milk production in Texas is generally sufficient for the proposed Texas market and that manufacturing plants within the State are fully adequate for the handling of the market's excess milk. In these circumstances, it was contended, any pooling

of cooperative balancing plants that do not meet specific performance standards should be limited to plants located in the marketing area. The handlers also contended that in the absence of performance requirements for balancing plants an additional safeguard is needed to assure that milk handled at such plants is an essential part of the market supply. Adoption of the 75 percent delivery requirement, it was claimed, would provide this assurance.

There are four cooperative balancing plants now pooled under the separate orders, all of which are operated by the cooperative association proposing the merger. Three plants are located in the proposed Texas marketing area—at Muenster, Sulphur Springs and San Antonio. The other plant is at Hillsboro, Kansas. Until recently, all four plants had manufacturing facilities. Such facilities at the San Antonio plant are no longer used.

The Muenster plant historically has been associated with the North Texas market, although the plant did shift to the South Texas market in September and October 1972. For many years, the Sulphur Springs plant likewise was a pool plant under the North Texas order. Soon after the inception of the South Texas order in late 1968, however, the plant became a South Texas pool plant and has since been regulated in that market much of the time. It did shift back to the North Texas market during March 1969–April 1970 and in June 1972. In recent years, the San Antonio plant has been a pool plant under the South Texas order in most months. On a few occasions, the plant was pooled under either the San Antonio or Corpus Christi orders. The Hillsboro plant first became associated with the Texas area in December 1970 when it became pooled under the South Texas order. It retained pool status under that order until August 1973 when it shifted to the North Texas market.

The Muenster and Sulphur Springs plant operations typify the usual concept of cooperative balancing plants. The two manufacturing plants are located in a heavy production area from which milk is normally moved directly from producers' farms to distributing plants for fluid use. When some of the milk of producers is not needed by distributors, such as on weekends or during the flush production months, it is moved directly from farms to the balancing plants for manufacturing. The plants also are relied upon by distributors as a source of supplemental supplies when the normal farm-to-distributing plant deliveries are not adequate for current bottling needs. Accordingly, such plants, or other plants in the marketing area that are performing similar balancing functions, should be accorded pool plant status if 60 percent or more of the milk of the cooperative's member producers is delivered to pool distributing plants.

Pool status for such plants will facilitate the efficient handling of reserve milk associated with the fluid market. When milk of some producers who regularly supply the market is temporarily not

needed by distributors, their milk can be pooled by delivery to the balancing plant. The plant thus is an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from distributing plants in order to keep the milk pooled on the market. This is an appropriate method of carrying reserve milk in the market pool provided reasonable standards are established to assure that the milk is truly a reserve supply associated with the fluid market.

Pool status for such plants will facilitate also the transfer of milk from cooperative balancing plants to pool distributing plants. Although milk should be moved when possible directly from the farm to distributing plants, there still are occasions when balancing plants are called upon for supplemental supplies. This may be due to surges in demand or limited holding capacity at distributing plants. If the balancing plants are not pool plants, such interplant transfers would be treated at the pool distributing plants as a receipt of other source milk, although the milk received at the balancing plants normally would be largely from producers regularly supplying the market. This would be costly, of course, to the purchasing handler and inequitable to the producers whose milk was received at the balancing plant.

Only those plants located in the proposed Texas marketing area should be eligible for pooling under the pool balancing plant provisions. The marketing area proposed herein encompasses virtually all of the distributing plants that are expected to be pooled under the merged order, as well as a very substantial part of the production area for the proposed market. For example, in May 1973, over 80 percent of the total producer milk on the six markets combined was from dairy farms located in the proposed marketing area. In this situation, it is only those cooperative association plants located in the marketing area that can be expected to perform the typical market balancing functions as described above.

Requiring a pool balancing plant to be located in the marketing area would preclude, of course, the Hillsboro plant from being a pool balancing plant under the merged order. Unlike the Muenster and Sulphur Springs plants, the Hillsboro plant is located about 400 miles from the adopted marketing area and functions substantially as a supply plant. As indicated earlier, most of the Kansas production that is delivered to Texas distributing plants is received first at the Hillsboro plant where it is reloaded onto other trucks for delivery to the market. Because of the plant's location, the Hillsboro plant is not in a position to perform the typical market balancing functions that are being performed by plants located in the proposed marketing area. As already described, pooling provisions are adopted herein for supply-type plants that should accommodate the Hillsboro operation if the plant demonstrates a reasonable association with the Texas market.

The cooperative operating the Hillsboro plant objected in its exceptions to the requirement that a pool balancing plant must be located in the marketing area. It claimed that this position is contrary to the Department's earlier position on this issue when it amended the North Texas order in 1966. The cooperative further claimed that the in-area requirement is inconsistent with the Department's denial in this merger proceeding of an in-area requirement for supply plants. It was implied in the exceptions that the Hillsboro plant, although having an association with the Texas market, would not be able to meet the new supply plant pooling standards. Official notice was requested of certain attached data relative to the receipts and disposition of the Hillsboro plant during August through December 1974.

With respect to this latter point, all interested parties must have an opportunity to refute any data offered for or against a proposal. Because there would not be this opportunity, the data proffered by the cooperative in its exceptions may not be taken into consideration at this point in the proceeding.

It is recognized that the position taken herein on the in-area requirement for balancing plants differs from the Department's earlier position relative to the North Texas market. The need for certain order provisions, however, must be based on the marketing conditions prevailing at the time of the hearing. It is not unusual for pooling standards that were found appropriate 8 or 9 years ago to become outdated. Changed conditions often require a change in order provisions.

As concluded earlier, a supply plant meeting the prescribed shipping requirements of the order will have demonstrated a bona fide association with the market. It is not necessary to require the plant to be located within some geographical area. A pool balancing plant, on the other hand, would not have to make any qualifying shipments to distributing plants. This necessitates some other measure of association with the market. For the reasons already indicated, this should be met in part by having the plant located within the Texas marketing area.

Under the circumstances existing in the Texas market, this is a reasonable means of delineating the area in which a balancing plant should be located to be eligible for pooling. Some other means could be devised, of course, such as requiring balancing plants to be within so many miles of certain basing points. As noted earlier, however, it is within the marketing area adopted herein that virtually all of the distributing plants expected to be pooled under the merged order are located. Also, a very major part of the milk supply for the Texas area is produced within the adopted marketing area. Those cooperative association plants in the proximity of both the distributing plants and the major production area are the plants in a position of performing the typical functions of "cooperative balancing plants." Presently,

the only existing plants meeting these criteria are those now located within the marketing area adopted for the merged order.

Another cooperative operating in the Texas market also excepted to the in-area requirement for balancing plants. It claimed that the pooling of such a plant should be contingent on the function the plant serves with respect to the milk supply for the market, which is reflected in how much of the cooperative's total member supply goes to distributing plants, and not on the location of the plant. For the reasons previously set forth, this position is not adopted.

It is necessary that there be a reasonable demonstration that the milk pooled through balancing plants is a part of the regular market supply. Milk should not be permitted to be associated with the market merely for manufacturing purposes since this would reduce returns to producers and discourage the production of an adequate supply of milk by producers regularly supplying the fluid market. Any performance requirement for a balancing plant per se would be inconsistent, of course, with the balancing function of the plant. For this reason, the pooling of a cooperative balancing plant should be contingent on its function with respect to the milk supply for the fluid market and this is reflected in how much of the cooperative's total milk supply from member producers is furnished to pool distributing plants.

Under present marketing conditions, at least 60 percent of the milk of member producers should be delivered each month to pool distributing plants to qualify the cooperative's balancing plants for pooling. This will assure a substantial association of the cooperative's total milk supply with the fluid market and will minimize the opportunity to pool unneeded milk through balancing plants.

Although the cooperative operating the present balancing plants indicated that a 60 percent delivery requirement would be appropriate for certain months, it urged that the minimum delivery requirement be set no higher than 50 percent for the months of March through July and December. It is noted, however, that during the 16-month period of July 1972 through October 1973 for which record data are available the percentage of the cooperative's member milk in the six markets that was delivered to pool distributing plants was 70 percent or more in every month. The cooperative contended that the supply of milk in the six Texas markets during this 16-month period was low relative to demand and that performance in the future at such a high level could not necessarily be expected. It seems likely from this 16-month delivery pattern, however, that the 60 percent requirement could be met each month, even with some increase in milk supplies. The 60 percent standard adopted herein will insure the integrity of the regulation by pooling only that milk which has a bona fide association with the market.

Adoption of the 75 percent delivery requirement, as was proposed by certain handlers, could be expected, on the other hand, to jeopardize the cooperative's ability to qualify its Texas balancing plants for pool status. The plants are serving a valid balancing function for the Texas area and can be expected to do so in the future. A performance requirement at the 75 percent level is not necessary to assure that a reasonable proportion of the total market supply will be made available for fluid use or to preclude the addition of substantial milk supplies solely for manufacturing use.

Pool plant status should be accorded only those cooperative balancing plants located in the marketing area that are approved by a duly constituted regulatory agency for disposition of Grade A milk in the marketing area. Such a provision is necessary to assure that the plant can be depended upon for supplemental milk supplies when such are needed by distributors. Since the merged order would not require any minimum shipments to the market from a cooperative balancing plant, it is conceivable that the plant might not take the necessary steps to maintain its health approval, thereby precluding the plant from being able to transfer milk to pool distributing plants.

It is possible that a distributing plant or a supply plant may meet the pooling requirements of two orders during the same month. As under the present orders, the merged order should provide certain guidelines for determining under which order the plant should be regulated.

A distributing plant that has route disposition in two marketing areas reasonably should be regulated in the market in which it has the greater route sales. However, if a plant that has been regulated under the merged order should have greater sales in another market, the plant should remain regulated under the merged order until the third consecutive month in which it has greater route disposition in the other marketing area. This procedure, which was proposed by the merger proponent, is now provided in five of the six orders to be merged. This provision obviously has had relevance primarily in the determination of which of the Texas orders a plant would be regulated under. Nevertheless, the possibility of plants being associated with the Texas market and other adjacent markets does exist. Accordingly, this provision should be continued under the merged order.

Pool status should not apply to a supply plant that has automatic pool status under another order but also qualifies as a pool plant under the merged order. On the other hand, a plant having automatic pool status under the Texas order should remain pooled under this order (if the plant operator chooses to retain such status) even though the plant qualifies for pooling status under another order. Similarly, a supply plant that only needs to meet the 15 percent performance requirements during the months of August and December because

of having met the higher shipping standards in earlier months should remain pooled under this order even though the plant qualifies for pooling under another order. A supply plant that qualifies for automatic pool plant status or is eligible for pooling under the 15 percent requirement has demonstrated its primary association with this market. Accordingly, it should not lose its pooling status during the months of automatic pooling because of shipments to another order market.

Two South Texas handlers, one of whom operates a supply plant, proposed that a supply plant that qualifies for pooling under two orders be pooled in the market that has the higher percentage of producer milk in Class I, irrespective of the quantity of milk shipped to each market. Proponents claimed that this arrangement would help equalize, relative to Class I use, the amounts of reserve milk being carried in the two pools.

The proposals should not be adopted. Such a provision could place a supply plant operator in a position of not always being able to have his plant pooled in the market of his choice. The Class I utilization percentage for each market may vary from month to month for any number of reasons, including changes in Class I sales and production and plants shifting in or out of the market. Thus, unless the Class I percentages of the two markets involved were substantially apart, the supply plant operator could not always be certain which market would have the higher Class I utilization each month.

Moreover, in those situations where a supply plant in the Texas market could qualify for pooling in another market as well, the plant operator might be hesitant to offer any milk to the other market if the Class I utilization in the other market were higher. This would be particularly so during the months in which the plant may be qualifying for automatic pool status under the Texas order. Becoming pooled in the other market during any of such months would make the plant ineligible for automatic pool status under the Texas order. This situation is not conducive to the orderly marketing of milk.

Guidelines concerning the pooling of a plant in one market or the other were proposed also for a cooperative balancing plant that has an association with more than one market on the basis of interplant transfers. The merger proponent suggested that such a plant be pooled in the market to which the greater quantity of milk is shipped from the plant. The two South Texas handlers just referred to proposed that a balancing plant be pooled in the market having the higher Class I utilization, irrespective of the quantity of milk shipped to each market.

From a technical standpoint, such guidelines would be meaningless under the merged order. In addition to the other standards for pooling a cooperative balancing plant, the cooperative association involved must request pool plant status for the plant if it is to be pooled.

This is the common arrangement under Federal orders providing for the pooling of balancing plants. If pool status is requested for such a plant under this order, it must be presumed, of course, that the cooperative would not make a similar request for pooling the plant under some other order. Without such a request, there would be no basis under the other order, then, for pooling the plant as a cooperative balancing plant.

Aside from this point, however, the degree of association of a cooperative balancing plant with one market or another must be considered in terms of the cooperative's total association of member milk with the market since no performance standards for the plant itself are normally required. As provided herein, a balancing plant would be afforded pool status under the Texas order only if 60 percent or more of the milk of the cooperative's member producers is delivered to pool distributing plants. This represents a substantial association of the cooperative's milk with the market, including that which may be handled through the cooperative's balancing plant. Since the pooling standards for cooperative balancing plants would not be based upon minimum qualifying shipments from the plant to distributing plants, the quantity of milk transferred from the balancing plant to any market does not in itself indicate the plant's association with such market. It should be noted that the proposed order would not pool a plant as a cooperative balancing plant if it has substantial shipments to distributing plants in a particular market and thus meets the pooling standards for a supply plant.

Nonpool plant. The "nonpool plant" definition now contained in the South Texas order should be continued in the merged order. This definition is the same as comparable definitions in the other five orders except for the inclusion of a "governmental agency plant." This additional provision is necessary to continue the exemption from regulation, as now provided by the South Texas order, of a milk plant operated by Texas A and M University at College Station, Texas.

A proposal to prescribe nonpool status for a certain handler's ice cream operation should not be adopted. A handler who operates a distributing plant regulated under the South Texas order manufactures ice cream in a building that is separate from his distributing plant but on the same premises. The handler proposed that the order treat the ice cream operation as a nonpool plant. Such treatment, it was claimed, would place the handler on the same competitive basis as his competitors who manufacture ice cream in nonpool plants using unregulated nonfat milk solids and butterfat.

Although the ice cream operation is located in a building that is separate from the fluid operation, the two buildings are connected by a pipe in which cream and milk are transferred from the fluid milk operation to the ice cream operation. Proponent conceded that milk or milk products conceivably could be run through the pipe in the reverse di-

rection. From a practical standpoint, this physical structure is no different than if the ice cream operation were located in a separate room within the building containing the fluid milk operation. Moreover, nonfat dry milk stored on the premises is used in both the fluid and ice cream operations. To preclude administrative difficulties in verifying all receipts and utilization of the handler and in determining the proper classification of producer milk received by him, the ice cream operation should be considered as a part of the distributing plant's total operation.

Handler. The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and making payments for milk under the merged order.

Accordingly, the order should designate handler status for the following persons:

- (1) The operator of a pool plant;
- (2) A cooperative association with respect to milk that is diverted for its account;
- (3) A cooperative association with respect to bulk tank milk picked up at the farm for delivery to a pool plant;
- (4) The operator of a partially regulated distributing plant;
- (5) A producer-handler; and
- (6) The operator of an other order plant from which milk is disposed of in the market.

Such persons are now defined in most cases as handlers under the six individual orders. It was proposed that the designation of such persons as handlers be continued.

Although a cooperative association would continue in certain situations to be a handler for farm bulk tank milk and for diverted milk, the responsibilities of such a handler should be somewhat different than those now set forth in the individual orders. In the case of bulk tank milk, a cooperative should be a handler with respect to any such milk which it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, should there be a mutual arrangement between the cooperative and the plant operator whereby the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the cooperative need not act in a handler capacity with respect to such milk.

When the milk of any producer is commingled in a tank truck with that of other producers, the identity of the individual producer's milk is lost. The amount of the producer's milk in the truck and the butterfat content thereof can be determined only from measurement of the milk at the farm and from milk samples taken from the farm tank. After the milk has been pumped from the individual producer's farm tank into the tank truck of the hauler and commingled with the milk of other producers, there is no

opportunity to measure, sample, or reject the milk of an individual producer.

Much of the milk received at pool plants in the Texas area is picked up at the farm in trucks owned or operated by, or under the control of, cooperative associations. In this case, it is only the association that has the opportunity to measure and sample the milk of individual producers that is received at the pool plant. In the absence of any agreement by the plant operator to be the handler for the milk, the association necessarily must be the responsible handler for the milk as it leaves the farm.

When a cooperative is the handler for farm bulk tank milk, certain accounting and payment procedures should apply under the merged order with respect to such milk. As provided in the attached order, the milk would be considered as a receipt of producer milk by the cooperative at the location of the pool plant to which the milk is delivered. The purchase of such milk by the pool plant operator would be treated as an interhandler transfer but would be classified pro rata with producer milk that the pool plant operator may receive. The pool plant operator would be obligated to the producer settlement fund for the milk received directly from producers and by transfer from bulk tank cooperative handlers at its classified use value. The cooperative in turn would be paid from the producer-settlement fund by the market administrator at the blend price. This is in contrast to the procedure under the North Texas, Central West Texas, Austin-Waco and San Antonio orders whereby the cooperative accounts to the pool at class prices for the milk delivered to pool plants. Under the South Texas and Corpus Christi orders, the milk delivered by the cooperative is now treated as a receipt of producer milk by the plant operator, who then is obligated to the pool for such milk.

The adopted accounting and payment procedure will facilitate administration of the order with respect to matters of financial responsibility and audit adjustments. It is the pool plant operator who processes the milk and distributes it to consumers. It is reasonable, then, that the responsibility for accounting for the utilization of such milk and for its payment be placed directly on the plant operator. Were settlement with the pool to be made by the cooperative association, i.e., should the plant operator settle with the cooperative at class prices and the cooperative pay to the producer-settlement fund, an unnecessary third party is involved in the transaction. Also, the adopted procedure will facilitate the handling of audit adjustments that might result from the verification of a plant's utilization of milk. An error in the reported classification of milk at the pool plant, for example, would not require a related adjustment in the cooperative's classification of milk and thus its obligation to the pool for such milk.

A pool plant operator receiving farm bulk tank milk from a cooperative also should be responsible for paying to the market administrator the administra-

tive assessment on such milk. The audit and verification activities of the market administrator relate essentially to the operations of the pool plant where the milk is processed. As in the case of producer milk which he receives from the farm, the plant operator thus should pay his pro rata share of the administrative costs on milk received from the cooperative in its capacity as a bulk tank handler.

When the cooperative assumes its role as the responsible handler on farm bulk tank milk, the pool plant operator may buy such milk on the basis of weights and butterfat tests determined at the plant rather than on the basis of those determined at the farm. Usually, the quantity of milk picked up at the farm slightly exceeds the quantity ascertained as actually received at the plant. In such cases, the difference should be considered as a receipt of producer milk by the cooperative association at the location of the pool plant where the milk in the tank truck was delivered. The cooperative should be obligated to settle with the producer-settlement fund and to pay the administrative assessment on the milk involved.

The pool plant operator should be permitted under the merged order to be the responsible handler on bulk tank milk moved by the cooperative from the farm to the plant if both the cooperative and the pool plant operator notify the market administrator that they have agreed to such a handler arrangement and that the plant operator agrees to purchase the milk on the basis of weights and tests determined at the farm. Under this arrangement, the pool plant operator would be responsible for the milk in the same manner as for producer milk that he receives at his plant directly from the farm.

A cooperative association also should be a handler with respect to the milk of a producer which is diverted for the account of the association from a pool plant of another handler to a nonpool plant that is not a producer-handler plant. All six orders proposed to be merged provide that a cooperative may act as a handler for diverted milk. Continuation of this handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing.

In its brief and exceptions, the merger proponent urged that a cooperative's designation as a handler with respect to diverted milk or farm bulk tank milk be limited only to the handling of member milk. This should not be adopted. The merged order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve supplies. If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of its members for delivery to a pool plant or for diversion to nonpool plants. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of the cooperative, has contracted with the cooperative to act as the marketing agent for his milk.

Nothing in the order would require a cooperative to pick up the milk of nonmember producers. It would provide, however, that when a cooperative does pick up milk of nonmember producers on trucks under its control it must assume varying degrees of responsibility with respect to such milk, depending on the handling arrangements made.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. With the adopted handler definition, the merged order would be consistent with that provision of the Capper-Volstead Act which recognizes that cooperatives may "deal in the products of nonmembers" and which limits such dealings to amounts not greater in value than as are "handled by it for members."

At the hearing a witness for the merger proponent expressed concern regarding payments to a nonmember producer if the cooperative is marketing such producer's milk. If the nonmember producer has signed a contract with the cooperative whereby he authorizes the cooperative to market his milk and collect payment therefor, the cooperative may pay the nonmember in accordance with the contract. If such marketing functions occur in the absence of a written contract, the cooperative would be required to pay the nonmember producer not less than the prices prescribed by the order.

Producer-handler. As under five of the six orders now, the merged order should provide for the exemption of a "producer-handler" from the pooling and pricing provisions of the order. The San Antonio order does not contain a producer-handler definition.

Experience under the Texas orders has demonstrated that effective regulation can be insured without the full regulation of individuals who produce, process, and distribute milk produced on their own farm and who buy no milk from other dairy farmers. Such operations in Texas are basically self-sufficient in that they rely primarily on their own farm production and assume the burden of maintaining the necessary reserve supply of milk associated with their fluid milk operation and of disposing of any daily or seasonal surpluses they may produce. Although two handlers objected in their exceptions to the failure to fully regulate producer-handlers, the record does not support the need for such regulation.

As adopted herein, a "producer-handler" would be any person who operates a dairy farm and a processing plant and who receives no fluid milk products from sources other than his own farm production and pool plants. Any such receipts from pool plants during the month could not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds. A producer-handler could not dispose of any other source milk in the form of a fluid milk product except through the addition of nonfat milk solids to fortify fluid milk products received from his own farm or from pool plants. To qualify as a

producer-handler, such person would have to provide proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

This producer-handler definition is similar to the one proposed by the merger proponent and closely parallels the producer-handler definition of the South Texas and Corpus Christi orders. Although the other orders are somewhat more liberal regarding the exemption of producer-handlers, application of the producer-handler provisions adopted herein to the merged market is not expected to change the status of any person now defined as a producer-handler under the individual orders. Under the current market situation, the adopted definition represents a reasonable set of criteria for exempting such persons from the pricing and pooling provisions of the order.

A proprietary pool plant operator proposed that there be a 12,000-pound limit on the size of a producer-handler's fluid operation. The handler stated that when a producer-handler type operation exceeds 12,000 pounds of Class I milk per month the person involved ceases to be basically a dairy farmer and becomes instead a milk handler and should be fully regulated.

No evidence was presented to show that a producer-handler distributing more than 12,000 pounds of Class I milk monthly would be a disruptive factor in the merged market. Although the record does not indicate the size of the current producer-handler operations, presumably they are generally larger. Monthly sales of 12,000 pounds might well represent the production of no more than 8 to 10 cows. No size limitations on producer-handlers are provided now under the individual orders. A restrictive provision of this nature appears unnecessary in the merged order at this time.

As an alternative to the 12,000-pound limitation on producer-handler operations, a proposal in the hearing notice would place a 1,000-pound monthly limit on purchases of fluid milk products by a producer-handler from pool plants. No testimony was presented by the proprietary handler concerning the 1,000-pound limit. Testimony by another witness, however, indicated that a currently defined producer-handler under the South Texas order would lose his status if the 1,000-pound limit were adopted. Such person would maintain his present status if the cooperative's proposed 10,000-pound limit were provided.

The individual orders now permit a producer-handler to buy milk from pool plants, although they differ somewhat as to the amount. Only the South Texas order provides a greater restriction than the 10,000-pound limit adopted herein. The record does not indicate that pro-

ducer-handlers are causing disorderly marketing in the individual markets and that there is any need for the lower limit on purchases from pool plants. Within the limits adopted herein, a producer-handler should continue to be permitted to purchase fluid milk products from pool plants without losing his producer-handler status.

As part of his alternate proposal, the proprietary handler also proposed that if a producer-handler loses his status and his plant becomes pooled, such person should not be eligible for producer-handler status until the third consecutive month in which he again would otherwise qualify as a producer-handler. The handler indicated that a producer-handler should not be permitted to switch his status back and forth between that of a producer-handler and that of a fully regulated handler to secure the benefits of whichever status might best serve his operational needs at the time.

Again, the record fails to demonstrate that such a provision is essential to the exemption being granted producer-handlers. Such persons generally have not been switching between regulated and unregulated status under the present orders. The provision urged for adoption is unnecessary at this time.

The provisions of the merged order would preclude a producer-handler from disposing of other source milk (such as nonfat dry milk) as Class I milk, except to increase the nonfat milk solids content of the fluid milk products he processes. Such provisions are necessary to assure that a producer-handler does not rely upon milk or milk products for Class I use that may be available at less than the order's Class I price. In the absence of any requirement to pay class prices for milk, a producer-handler could find it advantageous to reconstitute nonfat dry milk, for example, and sell it in fluid form to consumers. With nonfat dry milk carrying only a surplus milk value, competing regulated handlers would be at a disadvantage on their Class I sales.

It is recognized that relative to regulated handlers producer-handlers could have a very slight price advantage on fluid milk products modified by the addition of nonfat milk solids. This situation now exists in the South Texas, Corpus Christi and Austin-Waco markets. There is no indication, however, that this is a disruptive factor in these areas.

Under the merged order, producer-handler status would be contingent upon such person proving to the market administrator that the operation of the dairy farm and processing plant in question are at his sole risk. As indicated, a producer-handler's exemption from the pooling and pricing provisions is predicated upon the basic self-sufficiency of the total operation. Accordingly, no other person should be permitted to share the risk involved with the operation of a producer-handler's farm or his plant. All resources necessary for his own farm production of milk must be his personal

risk. Similarly, all risk associated with the operation of the processing plant must be that of the producer-handler. The risk concept need not extend, however, to the actual distribution on routes of the milk processed by the producer-handler. A jobber, for example, might pick up packaged fluid milk products at the dock of a producer-handler's plant for delivery to retail outlets. Although the producer-handler would not be assuming the risk of distribution in this case, neither would a regulated handler operating in similar fashion with respect to fluid sales from his plant.

Producer. The term "producer" defines those dairy farmers who constitute the regular source of supply for the merged market. The producer definition provided herein, with the exception of the "dairy farmer for other markets" concept described later, follows closely the definition proposed by the proponent of the merged order.

Producer status under the merged order should be provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area as Grade A milk and whose milk is received at a pool plant directly from the dairy farmer or received by a cooperative association as a handler on farm bulk tank milk for delivery to a pool plant. Producer status also should be accorded such a dairy farmer who has an established association with the market and whose milk is diverted to nonpool plants on occasion for surplus disposal.

A producer-handler and a governmental agency, which would have exempt status under the order, are excepted from the producer definition. In addition, the merged order should preclude the possibility of a dairy farmer being a producer under two orders with respect to the same milk. In this regard, the producer definition should continue the provisions of the present orders that exclude (1) a person with respect to milk which is diverted to a pool plant regulated under this order from a pool plant regulated under another order if such person is a producer under the other order with respect to such milk and it is allocated by agreement to Class II or Class III use under this order, and (2) a person with respect to milk which is diverted to an other order plant from a pool plant regulated under this order if any portion of such person's milk is assigned to Class I milk under the other order.

The producer definition should exclude any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preceding period of September through November any milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer

milk,* except milk diverted to a non-pool plant that loses its producer milk status. This provision should not apply, however, to dairy farmers associated with a plant that was not a pool plant during any of the preceding months of September through November but is regulated under the Texas order during any of the months of February through July. In this case, the dairy farmers delivering milk to such a plant should acquire producer status on their deliveries during the February-July period.

In connection with its proposed pooling standards for supply plants, proponent cooperative expressed concern about the possible association of unneeded milk supplies with the market during the flush production months. With this in mind, the cooperative proposed that the volume of milk pooled at a supply plant in any of the months of automatic pooling (a time when production is usually heavy) should not exceed 150 percent of the monthly average volume of milk pooled at the plant during the period upon which such plant's automatic pool status is based (usually the period of short production). Proponent stated that such a provision is necessary to prevent the influx of dairy farmers during the flush-production period when shipping standards need not be met but when milk production exceeds the market's fluid needs by the greatest amount.

Any safeguards against the addition of unreasonable quantities of producer milk on the market should apply not only in the case of supply plants but with respect to other pool plants as well. Because of the nature of their operations, it must be assumed that it would be as easy to associate additional milk supplies through cooperative balancing plants as it would be through supply plants. There is much less opportunity, of course, for additional milk supplies to be associated with a distributing plant since the performance requirement for such a plant is the same during the flush-production period as during other months.

Cooperative balancing plants now operating in the Texas area are manufacturing outlets not only for the six Texas markets under consideration but for neighboring markets as well. When reserve milk supplies are moved by the cooperative from various markets to the balancing plants for manufacturing, it is not uncommon for the milk to be reported as a receipt of producer milk at the plant rather than as a diversion of milk from another order. Under this arrangement, the milk, although a reserve supply for the other market, is pooled under the order regulating the balancing

plant. For example, milk not needed for fluid use in the Central West Texas, Austin-Waco, San Antonio, and Corpus Christi markets, where manufacturing facilities are not available, is often moved to a South Texas balancing plant under this handling arrangement. Although the appropriateness of this arrangement for these particular markets would become moot with the merger of the six orders, the issue remains with respect to the handling of reserve milk from other neighboring markets. When milk normally associated with the Rio Grande Valley market, for instance, is not needed in that area for fluid use, it is moved at times to a North Texas balancing plant for manufacturing. Rather than moving the milk by diversion, and thereby continuing to pool the milk under the Rio Grande Valley order, the milk is reported by the cooperative as a receipt of producer milk under the North Texas order.

If a handler causes the milk of a dairy farmer to be moved to another market as other than producer milk during the months when supplies are in greatest demand, producers regularly supplying the Texas market should not have the burden of sharing their pool proceeds with such other dairy farmers during the flush production months when the handler finds their milk to be surplus to the needs of the other market. A handler associating a dairy farmer with another market during the short-production season should not be able to have the dairy farmer qualify as a producer on the Texas market in other months when supplies are much more plentiful relative to demand. Permitting a handler to shift dairy farmers back and forth between markets in this manner would take supplies of milk away from the Texas market at a time when they are needed and then would reassociate such supplies at a time when they are not needed. This procedure would not be conducive to the orderly marketing of milk of producers regularly supplying the Texas market.

The intent of the "dairy farmer for other markets" provisions described above is to prevent a cooperative or plant operator from pooling on this market during the months of February through July milk that can be reasonably considered as a reserve supply for another market. Such provisions would not apply to a dairy farmer coming onto the market from another market if different persons were directing the delivery of the milk in each market, or to dairy farmers delivering milk to a pool plant that was a nonpool plant within the September-November period. The milk of dairy farmers that becomes associated with this market during the February-July period in this manner does not necessarily represent reserve supplies associated with another market and, accordingly, these dairy farmers should be allowed to obtain producer status under the order during this period.

Under the provisions adopted herein, milk received at a pool plant during the months of February through July from a "dairy farmer for other markets" would be designated as other source milk and

allocated to the extent possible to Class III milk. As such, this milk would be accounted for in a manner similar to receipts of fluid milk products from a producer-handler or a governmental agency plant that has non-producer status.

The application of the "dairy farmer for other markets" provisions should be modified somewhat for the initial period starting from the effective date of this order through July 1975. Otherwise, the determination of producer status under these provisions during this period would be contingent upon where a dairy farmer delivered his milk during September through November 1974, which would be before the merged order is effective. Dairy farmers thus would not have adequate notice as to the future rules concerning their eligibility as producers under the merged order. Accordingly, a dairy farmer's eligibility for producer status should be based initially on his status during the month immediately preceding the effective date of the merged order rather than during the September-November 1974 period. Since at least 30 days' notice will be given regarding the effective date of any merger, dairy farmers will be apprised in advance under this arrangement of the rules concerning producer status.

In its exceptions to the recommended decision, a cooperative urged that the "dairy farmer for other markets" provisions not be adopted. The cooperative expressed concern that it would not be able to shift producers to the Texas market during the flush production months to meet the Class I needs of handlers. Also, it was pointed out that such provisions would not preclude the addition of substantial quantities of milk to the market through the pooling of a new plant.

Past experience in the Texas area does not suggest that handlers in the market will be unable to acquire adequate milk supplies during the months of heavy production. Producers now associated with the market should be able to supply the Class I needs of the market during such months with little difficulty.

A plant would not be able to shift to the Texas market during the flush production months without having demonstrated a reasonable association with the market. This would be through distribution in the marketing area or shipments to distributing plants, which in either case would have to be sufficient to meet the pooling standards of the order. A plant meeting such standards should not be precluded from being pooled in the market.

Producer milk. The "producer milk" definition is intended to define the milk that would be priced and pooled under the merged order. The definition adopted herein carries out the basic objectives set forth by the merger proponent.

As provided herein, producer milk would include milk received during the month directly from a producer at a pool plant by the plant operator. It also would include milk of a producer that is received during the month by a cooperative association as a bulk tank handler

*In referring here and elsewhere in this decision to milk that is caused to be delivered to a plant by a cooperative association, it is intended that this include milk of producers which the cooperative, as the marketing agent for the milk, directs be moved from the farm to a particular plant, irrespective of whether the cooperative or some other person is the accountable handler under the order for such milk.

for delivery to a pool plant. Milk picked up by a handler at the farm in a bulk tank truck but not received at a plant until the next month would be producer milk in the month in which picked up. Under the adopted provisions, producer milk also would include milk of producers that is diverted from certain pool plants under specified conditions.

Under the present accounting procedures, bulk tank milk that is picked up at the farm but not physically received at a plant until the following month is treated as a receipt of producer milk in such following month. This procedure has presented substantial accounting problems, particularly when milk passes through a reload facility and a portion of the load on the pick-up tanker is transferred to an over-the-road tanker and received at a plant that month, while the remainder is held at the reload facility for delivery to a plant the next month. While administrative guidelines have been adopted to promote uniform accounting procedures for bulk milk throughout the Federal order system, the procedures have not fully resolved the accounting problems to the satisfaction of affected parties. Further, individual producers have not understood the deferred settlement for milk that results when milk picked up in the current month is not physically received at a plant during that month.

Dairy farmers need not be required to wait one and a half months before receiving the uniform price for milk that is picked up at their farms on the last day of a month but is not received at a plant until the following month. The accounting procedure will be simplified and should be more readily accepted if milk is pooled in all cases in the month in which it is picked up at the farm. The changes provided herein, will permit the pooling of producer milk in the month it is picked up at the farm, if the milk is received at a plant in the current or the following month. Milk received in the following month will be included in the responsible handler's end of the month inventory and will be priced at the location of the plant where the milk is physically received in the following month. Since this milk reasonably will be received at a plant on the 1st or 2nd day of the following month, the handler will know the location of the plant of actual receipt in time to include this information in his monthly report, which he files by the seventh day of the following month. If, however, none of the milk in the pick up tanker is received at a plant such milk will not be included in the handler's report and he will have no pool obligation on it. This conforms with the present provisions which tie the producer milk provisions to its receipt at a plant.

If the operator of a pool plant is the responsible handler he will account for this producer milk as part of his end of the month inventory and will be charged the Class III price in the month it is picked up at the farm. In the following month, this milk will be treated in the

same manner as other fluid milk products he had in inventory.

If a cooperative association bulk tank handler is the responsible handler such cooperative will account for the milk in transit as inventory and at the Class III price and will be credited at the blend price. Additional conforming changes are needed to implement this procedure to insure that in the following month the cooperative is credited for its pool obligation in the preceding month on such milk. In such following month, this milk is included in the obligations of the pool plant handler who physically received it and he will account to the market administrator for this milk at the classified prices. Such monies would be deposited in the producer-settlement fund, but since the milk was pooled in the preceding month it would not be included in the pool computation of the current month.

It should be noted here that bulk tank milk being diverted by a cooperative from another handler's pool plant to a nonpool plant should not be included in the cooperative's ending inventory if the milk is in transit at the end of the month. Instead, the final accounting for the milk should be in the month in which it is picked up at the farm. The inventory accounting procedure is not necessary in this case since the cooperative is the only accountable handler under the order for such milk. The milk is received by the cooperative, of course, at the time it is picked up at the farm.

Diversions of producer milk from a pool distributing plant or a pool supply plant to a nonpool plant that is not a producer-handler plant, for the account of the handler operating the pool plant, are recognized with specified limitations. Similar diversions could be made for the account of a cooperative from the pool plant of another handler. Also, producer milk could be diverted from a pool distributing plant to a pool supply plant or a pool cooperative balancing plant for the account of the distributing plant operator.

Diversion provisions are desirable to facilitate the orderly and efficient disposition of the market's reserve milk supplies. When producer milk is not needed in the market for Class I use, its movement to nonpool plants for manufacturing without loss of producer milk status should be accommodated. It is necessary, however, to safeguard against the association with the market of unneeded milk supplies through the diversion process. Accordingly, certain limitations should apply with respect to diversions of producer milk to nonpool plants.

The order should provide that milk of a dairy farmer be physically received at a pool plant before any of his milk is eligible to be diverted as producer milk. If a dairy farmer loses his producer status under the order, his milk must be reassociated with a pool plant before it may be eligible for diversion. For transitional purposes, deliveries to pool plants under the six orders to be merged should

be considered as deliveries to pool plants under the merged order. These requirements will assure that producers will have established an association with the market before their milk is eligible for diversion as producer milk to nonpool plants.

A limitation should be placed on the total quantity of producer milk that may be diverted monthly to nonpool plants by a handler. The quantity of milk so diverted by a cooperative association should not exceed one-third of the milk that it causes to be delivered during the month to all pool plants, except its pool balancing plants. Such deliveries to pool plants would include both the milk for which the cooperative is the bulk tank handler and the farm bulk tank milk for which there is an agreement that the plant operator, rather than the cooperative, will be the accountable handler.

The operator of a pool supply plant or a pool distributing plant should be able to divert any milk that is not under the control of a cooperative association. The total quantity of milk so diverted should not exceed one-third of the producer milk physically received at the handler's pool plant that was not caused to be delivered to such plant by a cooperative that is diverting producer milk.

Any milk diverted by a handler in excess of the quantity limitations should not be producer milk. If a diverting handler does not designate the producer deliveries to nonpool plants that are not producer milk, no milk diverted to nonpool plants by such handler during the month should be producer milk.

As provided herein, milk diverted from a pool plant would be included in the plant's receipts for purposes of determining whether or not the plant meets the applicable pooling standards. It is necessary under this procedure to safeguard against a pool plant not meeting the pooling standards because too much milk was diverted from the plant by a cooperative, perhaps without timely knowledge of this by the plant operator. Accordingly, whatever quantity of milk diverted by a cooperative from a pool plant of another handler that would cause such plant to become a nonpool plant should not be considered as producer milk.

A proprietary handler proposed that he be permitted to divert milk from a pool distributing plant to a pool balancing plant operated by a cooperative association for manufacturing. Diversions between pool plants are not now permitted under the six orders. Thus, when milk is moved directly from the farm to the balancing plant for surplus disposal, such milk is treated as a receipt of producer milk at the cooperative's pool plant and is the payroll responsibility of the cooperative. The handler indicated that he would like to retain the producer milk status and the payroll responsibility for his nonmember producers when their milk is moved to the cooperative's plant in this manner. To

accomplish this now, he must receive the milk at his plant and then transfer the milk to the cooperative's balancing plant.

The merged order should promote the efficient handling of milk by permitting the operator of a pool distributing plant to divert milk to a cooperative's pool balancing plant and retain the producer milk status and payroll responsibility for such milk. This will permit a distributing plant operator to avoid unnecessary and costly movements of milk merely for the purpose of retaining his status as the accountable handler for the milk. This procedure also would relieve the cooperative of accounting for this milk as its own producer milk and being responsible in all respects for the milk.

As indicated earlier, a cooperative association plant at Hillsboro, Kansas, that now qualifies as a pool balancing plant would be precluded from such status under the merged order. Under the provisions adopted herein this plant possibly could qualify as a pool supply plant. The plant has manufacturing facilities and has customarily processed reserve milk associated with the market. In view of this situation, it is both prudent and desirable that these facilities be available to manufacture the market's reserve supplies. Accordingly, provision should be made for the diversion of milk to pool supply plants as well as pool balancing plants. This will facilitate the orderly disposition of milk on the Texas market that is not needed for fluid use.

Milk diverted from a distributing plant to a pool plant of a cooperative association should be limited to milk that is not member milk of the cooperative. This will insure the integrity of the performance standards under which supply plants and balancing plants qualify for pooling. Without this limitation, member milk that might normally be received at the cooperative's plant as producer milk could be received as milk diverted from a distributing plant. Under this arrangement, the cooperative would be able to pool more milk on the market than would otherwise be the case.

As proposed by the merger proponent, all diverted milk should be deemed for pricing purposes to have been received by the diverting handler at the location of the plant to which the milk was diverted. This comports with requirements of the Act that milk be priced at the location of the plant of actual receipt. Pricing diverted milk at the location of the plant where such milk is physically received, rather than at the city plant from which diverted, removes the possibility of subsidizing distant producers when their milk is diverted to distant manufacturing plants. This would occur if such producers received a blend price f.o.b. the city plant as if the milk had actually moved to the city, when in fact no transportation cost had been incurred because the milk was diverted to a manufacturing plant located near the producer's farm.

Definition of a receipt. A proposal by a cooperative association and the operator

of a distributing plant would incorporate in the merged order the "administrative guidelines" that are being used by the market administrators for orders in Texas and elsewhere to determine what constitutes a receipt of milk at a plant.

These guidelines cover a number of milk receiving operations involving farm-to-plant milk movements and movements between plants. Such operations include receiving milk from the farm in a bulk tank truck that is partially unloaded at the plant or to which milk is added at the plant, or receiving milk from the farm through reload stations. Also included are those cases where milk from more than one plant, or from a plant and producers, is received at a pool plant in the same tank truck, with the truck perhaps being partially unloaded at the pool plant or "topped off" with additional milk. Other receiving operations covered relate to diversions of milk from pool plants to nonpool plants that involve various handling arrangements. Proponents contended that including these guidelines in the order would insure the uniform application of these administrative rules to all handlers in the market.

The receipt guidelines now being used administratively were developed largely to assist in a more uniform application of the orders over a wide region in the absence of any specific order provisions concerning particular milk receiving operations. The guidelines apparently have widespread acceptance within the industry and appear to be adequately serving the needs of producers and handlers in the area here under consideration.

Under the modified procedures for the pooling of producer milk in the month it is picked up at the farm, such procedures will not have the same broad application and it would not be appropriate to include such guidelines in the order. Their exclusion from the order would provide a degree of flexibility in adapting the guidelines to changing methods of handling milk that would not be available if the guidelines were incorporated in the order. Moreover, the inclusion of the guidelines in the order would not remove the verification problems encountered in providing uniform application of the order provisions. The problems concerning the verification of a receipt of milk under the merged order would be the same whether the market administrator is enforcing an administrative guideline or an order provision. In view of the foregoing considerations, the proposal is denied.

In their exceptions regarding this issue, proponents restated their position taken at the hearing that a "receipts" definition must be included in the order to assure uniform application of the order provisions to all handlers. For the reasons just indicated, we cannot agree with proponents on this point.

(b) *Classification of milk.* The uniform classification plan recently adopted for each of the six orders under consideration should be continued under the merged order. This plan provides for the classification of milk according to use,

including rules for determining the classification of milk moved from one plant to another. The plan also sets forth a procedure for allocating a handler's receipts of milk and milk products from various sources to his utilization in each class in order to determine the classification of producer milk.

At the time of the merger hearing, five of the six orders were involved in amendatory proceedings concerning proposals for a uniform classification plan for 39 orders. The South Texas order was not included. Revised recommended decisions had been issued by the Department and were being reviewed by the industry prior to the issuance of final decisions by the Department.

In conjunction with its merger proposal, the proponent cooperative urged that the Department's recommended classification plan, with certain modifications, be carried forth under the merged order. Handlers who testified on the classification issue generally took a similar position. Because of the broad industry support for a uniform classification plan, and because of the very extensive hearings that had been held on this issue relative to the 39 orders, little testimony was presented at the Texas hearing concerning the details of the classification provisions for the merged order. As indicated at the outset of this decision, action has already been taken on the basis of this hearing with respect to the proposal for interim action on a uniform classification plan for the South Texas order.

Following the close of the merger hearing, the 39-market proceedings were completed and the resulting uniform classification plan for such markets became effective on August 1, 1974. The same classification plan was adopted for the South Texas market and it likewise became effective on that date.

There is no basis for a classification plan for the merged order different from the plan just recently found appropriate for the separate orders. The modifications of the plan, or objections to it, that were set forth by producers and handlers at the merger hearing were similarly raised by the same parties in the 39-market proceedings and were fully considered at that time. Current marketing conditions in the Texas area here under consideration support the continued applicability of the recently adopted classification provisions.

A proprietary handler urged a change in the merger proponent's proposed classification of milk that is transferred to a pool plant from another pool plant or from a cooperative bulk tank handler. Under the cooperative's proposal, the two handlers involved could agree on the classification of the milk transferred if there is enough utilization in that class at the transferee-plant. In the absence of any agreement, a Class I classification would apply to the transfer. This is the arrangement adopted herein for the merged order with respect to transfers between pool plants. As described earlier, however, milk received at a pool plant from a cooperative bulk tank handler would be classified in the same manner

as producer milk received at the pool plant. This method of classifying cooperative bulk tank milk was the objective sought by the handler in his proposal.

It should be noted here that although handlers would be able to agree on the classification of transfers as between pool plants such transfers would be subject, nevertheless, to the location adjustment credit provisions of the order. These provisions limit the amount of location adjustment credit that may be permitted on Class I transfers between pool plants. As described later, this is necessary to protect the pool from unwarranted transportation costs.

(c) *Class I price and in-area location adjustments.* The Class I price for the Texas market should be established for the Dallas area, or "Zone 1," with prices applicable at plants in other areas to be determined through the use of location adjustments. Such Class I price should be the basic formula price for the second preceding month plus a Class I differential of \$2.32.

For purposes of applying location adjustments, the Texas marketing area should be divided into 12 pricing zones. The location adjustment for each zone, the resulting Class I differential (shown parenthetically), and the Texas counties that should be included in each zone are as follows:

Zone 1—no adjustment (\$2.32).

Camp.	Johnson.
Collin.	Kaufman.
Cooke.	Lamar.
Dallas.	Morris.
Delta.	Parker.
Denton.	Rains.
Ellis.	Red River.
Fannin.	Rockwall.
Franklin.	Somervell.
Grayson.	Tarrant.
Hill (Blum and	Titus.
Itasca divisions	Upshur.
only). ²	Van Zandt.
Hood.	Wise.
Hopkins.	Wood.
Hunt.	

Zone 2—plus 6 cents (\$2.38).

Gregg.	Panola.
Harrison.	Rusk.
Marion.	Smith.

Zone 3—plus 15 cents (\$2.47).

Anderson.	Henderson.
Bell.	Hill (except Blum
Bosque.	and Itasca divi-
Cherokee.	sions).
Comanche.	Lampasas.
Coryell.	Limestone.
Erath.	McLennan.
Falls.	Mills.
Freestone.	Navarro.
Hamilton.	

Zone 4—plus 18 cents (\$2.50).

Angelina.	Polk.
Houston.	Sabine.
Jasper.	San Augustine.
Leon.	Shelby.
Nacogdoches.	Trinity.
Newton.	Tyler.

² The use of "divisions" for delineating portions of Hill County is based on the geographical units set forth in the publication of the Bureau of Census, U.S. Department of Commerce, titled "Number of Inhabitants, TEXAS, 1970 Census of Population."

Zone 5—plus 20 cents (\$2.52).

Brazos.	Milam.
Burleson.	Robertson.
Grimes.	Walker.
Madison.	

Zone 6—plus 25 cents (\$2.57).

Andrews.	King.
Borden.	Knox.
Brown.	Marlin.
Callahan.	Midland.
Coke.	Mitchell.
Coleman.	Nolan.
Dawson.	Palo Pinto.
Eastland.	Runnels.
Ector.	Scurry.
Fisher.	Shackelford.
Foard.	Stephens.
Glasscock.	Sterling.
Haskell.	Stonewall.
Howard.	Taylor.
Jack.	Throckmorton.
Jones.	Tom Green.
Kent.	Young.

Zone 7—plus 30 cents (\$2.62).

Bastrop.	Travis.
Burnet.	Williamson.
Lee.	

Zone 8—plus 35 cents (\$2.68).

Austin.	Harris.
Brazoria.	Jefferson.
Chambers.	Liberty.
Colorado.	Montgomery.
Fayette.	Orange.
Fort Bend.	San Jacinto.
Galveston.	Waller.
Hardin.	Washington.

Zone 9—plus 42 cents (\$2.74).

Bexar.	Hays.
Caldwell.	Jackson.
Comal.	Lavaca.
De Witt.	Matagorda.
Gonzales.	Wharton.
Guadalupe.	Wilson.

Zone 10—plus 53 cents (\$2.85).

Aransas.	Karnes.
Bee.	Live Oak.
Calhoun.	Refugio.
Goliad.	Victoria.

Zone 11—plus 66 cents (\$2.98).

Brooks.	Kleberg.
Duval.	Nueces.
Jim Wells.	San Patricio.
Kenedy.	

Zone 12—plus 75 cents (\$3.07).

Cameron.	Willacy.
Hidalgo.	

The cooperative proposing the merged order proposed that the basic formula price now used under the separate orders be continued. There was no opposition to this proposal.

The present basic formula price in each of the separate orders is based on pay prices for manufacturing grade milk at plants in the States of Minnesota and Wisconsin. This basic formula price is used in setting Class I prices under all Federal orders. Its continued use under the merged order will assist in the maintenance of adequate supplies for the market. Also, Class I price changes under this order will remain coordinated with those under all other orders.

The cooperative also proposed that the Class I price for the Texas market be established for the Dallas area, with prices applicable at plants in other areas

to be determined through the use of location adjustments. Under its proposal as discussed at the hearing, the Class I price at Dallas would be the basic formula price for the second preceding month plus \$2.34, two cents above the present Dallas price. Class I prices at other plant locations in Texas likewise would be increased two cents over present levels. Under the hearing proposal, the present price relationships between plants located in Texas, with one exception, would be continued. At Gonzales, the Class I price would be increased six cents relative to the proposed prices at other plants.

In its exceptions to the recommended decision, the cooperative modified its initial position on prices at two locations. The cooperative urged that the Class I price at Lufkin, Texas, be the same as the Class I price at Tyler and Marshall, Texas. The price at Lufkin is now 12 cents per hundredweight higher. Similarly, the cooperative urged that the price at Victoria, Texas, be the same as the Class I price at San Antonio. The Victoria price is now 11 cents higher. In both cases, the cooperative contended that the fluid sales competition of plants at the higher-priced locations with nearby plants in the lower-priced areas is such as to warrant the same Class I price among competing handlers.

In its post-hearing brief, the cooperative also changed its initial position expressed at the hearing with respect to the general price level for the entire market. The cooperative urged in its brief that the Class I price differential at Dallas be \$2.90 rather than \$2.34. This was based on the Class I price applicable under the Chicago Regional order at Eau Claire, Wisconsin, plus two cents per hundredweight for each 10 miles from Eau Claire to Dallas. The cooperative likewise urged corresponding increases in Class I prices at other Texas locations to reflect the two-cent transportation rate.

A similar transportation rate (2.2 cents per 10 miles) was proposed also by a handler who operates a distributing plant at Dallas. Under this proposal, attention was directed primarily to the price relationships between Dallas and other locations throughout Texas. The handler indicated that he was particularly interested in increasing the price level at Houston relative to Dallas because of his shipments of packaged fluid milk products to Houston from his Dallas plant. He claimed that the present difference in Class I prices at these two locations does not cover his transportation cost. He stated that because of higher transportation costs today the commonly used transportation rate of 1.5 cents per 10 miles is no longer appropriate in setting prices at various locations. Under his proposal, the Class I price at Houston, for example, would be increased 16.6 cents. The price at Harlingen would be increased 35 cents.

Another proposal that would affect the general Class I price level of the Texas market was made by a handler who operates a distributing plant at Victoria,

Texas. He proposed that the transportation rate be determined from a formula, which presently would yield a rate of 1.7649 cents per 10 miles. It was suggested that the Texas price structure be tied to some pricing point in the more northern states, such as Omaha, Nebraska.

Two handlers opposed any increase in the general Class I price level. Such an increase, it was indicated, would alter adversely the price alignment with other Federal order markets. One of the handlers testified, however, that if prices in some parts of Texas are reduced, as several handlers proposed, the Class I price level should then be increased so that producers in total do not have their returns lowered.

Several proposals were made to change the present Class I prices at selected locations within the proposed marketing area. These proposals, which are less directly related to the general price level for the market, are discussed later.

Basically, the Class I price structure for the Texas market should be established at a level which, in conjunction with the Class II and Class III prices, will result in returns to producers sufficient to insure an adequate, but not excessive, supply of pure and wholesome milk for the market. The adequacy of milk supplies for the Texas area has been dependent upon the Class I prices applicable in the various segments of the adopted marketing area. The Class I price levels now applicable within this area, as expressed in terms of the Class I differentials of the separate orders, are as follows:

North Texas.....	\$2.32
Central West Texas.....	2.57
South Texas.....	2.68
Austin-Waco.....	2.70
San Antonio.....	2.74
Corpus Christi.....	3.07

Data for the separately regulated areas indicate that on a combined basis producer receipts in 1972 were 133 percent of the total Class I utilization of regulated handlers. For 1973, this figure was 129 percent. In the short production months of September, October and November, supplies were still reasonably sufficient for the Class I needs of the area. In 1972 and 1973, producer receipts during this three-month period were 117 percent and 121 percent, respectively, of Class I use.

This supply-demand relationship indicates that the prevailing Federal order Class I price structure in the Texas area has been bringing forth an adequate, although not excessive, supply of milk for consumers. A higher minimum price level under the order could stimulate additional milk production not needed for fluid use, thereby resulting in a misallocation of agricultural resources. Also, such greater production could lead to the building of costly additional manufacturing facilities since the present surplus disposal capacity in Texas is now relatively limited. Moreover, since raw milk costs are customarily passed on to consumers, a higher Class I price level could lead to higher retail prices for milk. Un-

der these circumstances, the public interest would not be served by establishing a higher minimum Class I price level than now exists in the Texas area.

In addition, an increase in the present Class I price structure for the area, such as using a Class I differential of \$2.90 at Dallas with corresponding increases elsewhere in the market, could be disruptive for those producers who are regular suppliers of milk for the Texas market. Class I milk should be priced competitively with milk supplies in surrounding markets if local producers are to be reasonably assured of a Class I outlet for their milk. Thus, Class I prices within the Texas area should not be higher than the cost of obtaining quality milk on a regular basis from alternative sources. If a significant price advantage exists, handlers customarily relying on local supplies would recognize the advantage of another supply and would be encouraged to change their buying arrangements. Relatively high Class I prices in the Texas market not only could encourage the use of alternative raw milk supplies but also might cause Texas handlers to lose packaged fluid milk sales to handlers in other markets.

It is essential, then, that the Class I price structure in Texas be aligned with the Class I prices of markets that are likely to represent alternative sources of milk for the Texas area. Milk brought into Texas must come from farms and plants inspected by Texas authorities. Out-of-State supplies now approved for Texas are limited essentially to those in Oklahoma and Kansas. Minimal quantities of milk produced in Nebraska and Arkansas also are now eligible for delivery to Texas. However, should the Texas price structure provide the incentive, it could be expected that Texas handlers would develop new Texas-approved supplies in other areas.

Historically, the Chicago milkshed has been a major source of supplemental supplies for many of the markets throughout much of the United States. The cooperative proposing the merged order indicated, for example, that during the short production months it sometimes must move Texas-approved milk normally going to Oklahoma handlers to Texas handlers instead. When it does this, it then replaces the Oklahoma milk with milk from the Upper Midwest that does not have Texas inspection.

To reflect the variable cost of moving milk from the Upper Midwest to distant markets, Class I prices in Federal order markets gradually increase the more distant the markets are from the Chicago area. This accounts for the graduated price levels not only in the markets to the north of Texas but in the now separately regulated markets within the area under consideration as well. The gradation of prices reflects to a large degree a transportation rate of 1.5 cents per hundredweight per 10 miles. On this basis, the present Class I price structure within the Texas area, including a Class I differential of \$2.32 at Dallas, is in reasonable alignment with markets to the north.

The existing Class I price structure for the Texas area appears to be providing the proper balance between adequate milk supplies and the necessary alignment of prices not only with other markets but among the various segments of the Texas area. In this circumstance, this price structure should be continued under the merged order.

The handler proposing a price structure based on a location adjustment rate of 2.2 cents per 10 miles claimed in his exceptions to the recommended decision that the adopted pricing, which largely reflects a 1.5-cent rate, fails to recognize an increase in the cost of hauling milk. The handler contended that the uniformity of prices to all handlers, as prescribed by the Act, cannot be achieved unless the differences in Class I prices at various locations in the market reflect the actual costs of transporting milk. He further stressed that a failure to reflect such costs in the Texas price structure would discriminate against him in that this would create an artificial barrier to effective competition for packaged milk sales in distant parts of the market. It was his contention, for example, that the present 36-cent difference in Class I prices at Dallas and Houston, which would be continued, does not cover the cost of moving packaged milk from his Dallas processing plant to sales outlets in the Houston area. The handler claimed that the cost of raw milk to Houston handlers f.o.b. their plants is thus less than the cost of his milk after it has been processed at Dallas and moved to the Houston area.

The Class I price structure under the Texas order is not intended to assure each handler in the market that he will have cost compatibility at any location at which he may choose to distribute milk. Its purpose is to assure handlers, and ultimately consumers, of an adequate milk supply. There has been a reasonable demonstration that the present pattern of milk prices throughout the Texas area has attracted sufficient, but not excessive, raw milk supplies to handlers operating in the various parts of the State. Local considerations do suggest certain price changes at specific locations, and these have been dealt with in this decision. Nevertheless, the supply-demand balance in the market does not warrant a major restructuring of prices that necessarily would result if prices were to reflect a higher transportation rate.

There is little doubt from the record that there has been some increase recently in the cost of hauling milk. However, to the extent that hauling costs are an important consideration in establishing the level of prices, only those costs associated with the movement of bulk milk should be considered. The price structure is intended to attract raw milk supplies to a given location, not packaged milk. The only substantive cost data made available at the hearing were those relating to movements of milk in packaged form. These were offered by the handler proposing the 2.2-cent location adjustment rate. Although some of the

increased costs would affect the movement of bulk milk as well, no extensive cost data were presented with regard to the actual current trucking costs for movements of milk in bulk form. The handler presenting the cost data for packaged milk movements also offered his analysis of how these costs would translate into the cost of hauling bulk milk. The analysis was based on a Department study that used 1969 cost data in developing synthetic costs of hauling bulk milk over long distances. The handler updated this study using various economic indices. Although a synthetic cost study may be useful as a guide, it must be recognized that the hauling costs presented in the study are constructed, or estimated, costs and not costs actually incurred by specific milk haulers. Changes in transportation allowances under an order should reflect widespread current operating experience in the market.

In spite of some increase in hauling costs, adequate raw milk supplies are in fact being made available to handlers throughout the Texas market. This includes substantial movements of milk from the northern part of Texas to the southern areas of the State. There is no indication that increased hauling costs are deterring such milk movements. It is reasonable, then, to have the Class I price structure for the Texas market continue to reflect a transportation rate of 15 cents per hundredweight for each 10 miles. Accordingly, pricing considerations for specific areas in the market, as discussed later, are dealt with within this framework.

Contrary to the exceptor's contentions, price uniformity for all handlers in a market does not contemplate a "precise" alignment of prices (or, in effect, raw milk costs) at different locations based on actual hauling costs. In fact, this is something that simply cannot be achieved. The cost of transporting milk differs from hauler to hauler (as well as between bulk milk and packaged milk if recognition were to be given, as desired by exceptor, to packaged milk movements). Any reflection of hauling rates in an order could be no more than a reflection of the average hauling rate being experienced by all handlers in the market. This in itself precludes any precise price alignment for individual handlers. Also, it is not possible to establish a price structure under which each plant's Class I price is lower, and at the same transportation rate, than the price at every other plant in the market. Such an arrangement is administratively unworkable in that it would require multiple Class I prices at each plant location.

A handler may distribute milk in any area he chooses. Should he decide to sell milk in an area where handlers have a lower cost, he must assume any competitive risks involved. It would be uneconomic to have the order provide a handler with cost comparability at any location at which he may choose to distribute milk.

Only one Class I price should be announced under the order. Presently, of

course, a Class I price is announced for each of the six regulated areas to be combined. Because the adopted marketing area would cover such a large territory, it is necessary that the announced Class I price apply only to a limited portion of such area. The Class I price at all plants located outside this area, defined herein as Zone 1, should be the announced Class I price as adjusted for the location of the plant.

Zone 1 should comprise much of the present North Texas marketing area. The North Texas area is the largest segment of the combined market in terms of both milk supplies and Class I sales. Of the total Texas production now associated with the six-market area, about one-half comes from farms located in the 28 counties that would make up Zone 1. Of the total Class I sales in the six markets, about 40 percent is by North Texas handlers. Zone 1, which includes the Dallas-Ft. Worth metropolitan complex, has about 30 percent of the total population of the proposed Texas marketing area. The concentration of production and Class I sales in the present North Texas area, relative to other segments of the market, makes it appropriate to establish this area as the focal pricing point within the Texas market.

As indicated, the Class I price structure now applicable in the Texas area should be retained. With one exception, this should be the case with respect to all locations within the adopted marketing area where there are now plants regulated under the separate orders. Under this price structure, Class I prices at the various plants increase as one goes westward and southward from the North Texas area. This gradation of prices reflects the additional value that milk has at the various plant locations relative to the value of milk in the North Texas region.

Handlers in the western and southern parts of the State rely to the extent possible on locally produced milk. When local supplies are not adequate, though, as is usually the case during the short production months, additional milk must be obtained from other areas. As just noted, much of the milk supply for Texas is produced in the North Texas region. Producers in the northern area cannot be expected, however, to make their milk available to handlers in the deficit production areas unless there is a sufficient price incentive. This is related largely to the cost of moving milk.

The Class I prices that now apply at various plants in the adopted marketing area thus represent the value of an economic service to handlers by distant producers who bear the cost of moving their milk to the handlers' plants. This is the case even where a handler draws his entire supply from producers located near his plant. In the absence of any local supply, the handler would have to procure milk from other areas. Thus, the value of milk at that plant location necessarily must reflect the cost of obtaining milk from reserve supply sources. Also, the economic value of the local milk supply at a given plant location is related

to the local producers' opportunity to ship milk to other plants where the price is higher. If the local price is too low relative to this "opportunity" price at other locations, the local supply will be attracted to other areas.

The only change that should be made in the Class I prices now applicable at regulated plants in Texas is a six-cent increase in the price at Gonzales. A plant at this location is now regulated under the South Texas order and has the same Class I differential (\$2.68) as plants in Houston. As a result of this decision, the Class I differential at the Gonzales plant would be increased to \$2.74, which is the Class I differential now applicable at San Antonio.

Although the Gonzales plant is regulated under the South Texas order, it is actually located much nearer the San Antonio market than the major sales area of the South Texas market. Gonzales is 70 miles east of San Antonio and 140 miles west of Houston. It is about 14 miles south of the main highway that connects these two cities. Also, Gonzales is located about the same distance as San Antonio from the heavy production area in the North Texas area, which is somewhat further from such area than Houston. Thus, producers delivering milk to the Gonzales plant are providing an economic service of benefit to the handler that approximates the service provided to San Antonio handlers but which exceeds the economic service to Houston handlers. The producers delivering to the Gonzales plant should be compensated accordingly for this service.

Moreover, the higher price differential at Gonzales will more closely reflect the actual location value of milk at Gonzales relative to the value of milk at a regulated plant at Victoria, Texas. Victoria is 60 miles south of Gonzales. The present difference in Class I prices at the two locations is 17 cents. This decision will reduce the price difference to 11 cents.

Because the plants have been regulated under different orders, it has not been possible to maintain a precise alignment of Class I prices at plants located in San Antonio and Gonzales. Under the present price structure, the Gonzales handler, although paying a lower Class I price than is proposed herein, apparently has been able to maintain his milk supply. This will not necessarily be the case under the merged order, however, since his producers, over time, will seek their most remunerative outlet.

Although he did not testify at the hearing with respect to the cooperative's proposed Class I price increase at Gonzales, the operator of the Gonzales plant filed exceptions to the recommended adoption of this proposal. The handler claimed that since he has always been associated with the South Texas market his Class I price should continue to be the same as the price applicable at Houston. It is concluded, however, that on the basis of the available evidence placed in the record, and for the reasons already set forth, the adoption of the higher

price at Gonzales is reasonable under the present marketing situation.

The Victoria handler who proposed that the transportation rate be determined by a formula contended that his Class I price is too high relative to Class I prices in Austin, Houston and San Antonio when such prices are based on the cost of hauling milk from Dallas. As an alternative to his proposal using a location adjustment formula, the handler proposed that the present Class I price applicable at his plant be reduced 9 cents. He stated that about 70 percent of his milk supply comes directly from Texas producers, with the remainder coming from a plant in Kansas.

In determining the appropriate Class I price at Victoria, it is necessary to give substantial consideration to the relationship of prices at various locations in the southern part of Texas. Although the major supply of reserve milk is in the North Texas area, which suggests the need for aligning prices with that area, distributing plants in southern Texas procure milk regularly from farms in this southern area. The economic value of milk to the southern producer is determined by the alternative outlets for his milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, probably would not be available to plants at those locations.

Corpus Christi is a major consumption center in southern Texas. The primary milkshed for this metropolitan area extends northward to an area between San Antonio and Victoria. Part of the milk received by Corpus Christi handlers comes directly from farms in this part of the milkshed and at times from a supply plant in San Antonio. The relationship of Class I prices at plants located in or near this milkshed area with the Corpus Christi price is thus an important consideration.

Based on the transportation rate of 1.5 cents per 10 miles, the present Class I prices at both Victoria and San Antonio are in reasonable alignment with the Corpus Christi price. The 93-mile distance from Victoria to Corpus Christi would suggest a price difference of 14 cents per hundredweight. The present difference is 13 cents. Similarly, the 145-mile distance between San Antonio and Corpus Christi would suggest a price difference between these locations of 22 cents. The Class I prices at these cities now differ by 24 cents. Corpus Christi is 390 miles from Dallas. This distance would suggest a Class I price at Corpus Christi 7.5 cents lower than the currently applicable price. As noted, however, supplemental milk for handlers at Corpus Christi is obtained from the San Antonio area. In recognition of this, the present price relationship between Corpus Christi and San Antonio which reflects the 1.5-cent rate, should be maintained. Correspondingly, the current price difference between Corpus Christi and Victoria likewise should be continued.

In his exceptions to the proposed retention of his present Class I price, the Victoria handler stressed that a proper price alignment with Dallas is essential

to his competitive position for fluid sales. He contended that without such an alignment he is disadvantaged in competing with distributing plants located in areas north of him.

At the hearing, the handler indicated that his sales area overlaps with those of handlers at San Antonio, Gonzales, Bryan and Houston, as well as Corpus Christi to the south. Using the 1.5-cent transportation rate as a measure of alignment, the present Class I price at Victoria is closely aligned with the prices adopted herein for Houston and Gonzales. With respect to San Antonio, the Victoria price is about seven cents lower than the distance between the two locations would suggest. Relative to Bryan, which is 154 miles to the north, just the reverse is true, with the Victoria price being somewhat high. Of course, handlers who distribute milk in lower-priced areas (usually to the north) cannot expect to compete on the same cost basis with handlers located in such areas who have lower procurement costs.

For the above reasons, it is concluded that the proposals of the Victoria handler must be denied.

The operator of distributing plants at Corpus Christi and Harlingen that are regulated under the Corpus Christi order proposed that the price applicable at Corpus Christi apply in all the territory constituting the present Corpus Christi marketing area. In support of his proposal, proponent suggested that since consumers in the southernmost part of the merged marketing area have a relatively low effective median cash income per household, the Class I price in this region should be lower relative to Class I prices in other parts of the marketing area.

Presently, the Class I price at Harlingen is 9 cents higher than the price at Corpus Christi. Under the price structure adopted herein, this price difference would be continued. Harlingen is one of several cities located at the southern tip of Texas in an area commonly referred to as the "Valley." There are three pool distributing plants located in the Valley, at Donna, Edinburg and Harlingen. Some of the milk supplies for these handlers comes from a supply plant located at Falfurrias, which is about 65 miles north of Edinburg, the closest of the three cities. Falfurrias is located in the center of a production area that supplies milk to handlers located both in Corpus Christi and in the Valley, either directly from the farm or through the Falfurrias plant. The 9-cent higher price in the Valley relative to the price in Falfurrias and Corpus Christi provides an appropriate price to producers in this production area who have a choice of outlets and reflects the cost of transporting milk from the Falfurrias area to the Valley. It is appropriate that this pricing structure, which is resulting in adequate but not excessive supplies of milk in the Valley, be continued under the merged order.

The operator of a pool distributing plant at Tyler proposed that the location adjustment applicable at the cities of Marshall and Tyler be minus 3 cents.

This would reduce the Class I price in the Marshall-Tyler area 9 cents from the present level. Another handler who operates pool distributing plants in both Marshall and Tyler proposed a price adjustment of minus 6 cents for this area, which would reduce the present price 12 cents. The operator of a pool distributing plant in Lufkin proposed that the Lufkin price be the same as the price applicable at Marshall and Tyler. Presently, the price at Lufkin is 12 cents higher than the price at these two cities.

The plants located in these three cities distribute milk throughout the east Texas area in competition with one another and with handlers located in the Dallas-Fort Worth area and in the Houston-Beaumont area. Marshall and Tyler are located about 55 miles apart in an east-west direction. Lufkin is located to the south about 100 miles from Marshall and 85 miles from Tyler. Milk packaged at one of the Tyler plants and at Lufkin is distributed as far south as the Beaumont area and the territory just east and north of Houston. The cities of Lufkin, Tyler and Marshall are 120, 200 and 220 miles, respectively, north of Houston and 105, 190 and 200 miles, respectively, north of Beaumont.

The location value of milk in this entire general area of eastern Texas depends principally upon the price obtainable for milk delivered to the Houston-Beaumont metropolitan area less cost of delivery. The Houston-Beaumont area is a major consumption center for milk. Milk supplies in and around this area, however, are relatively short and much of the milk for handlers must come from the heavy production region in north-eastern Texas. The use of a plus 6-cent location adjustment at Marshall and Tyler and a plus 18-cent adjustment at Lufkin reflects the gradation of Class I prices from north to south that is necessary to reflect the cost of moving milk to these intervening locations. Without this alignment of prices from north to south, handlers in the Houston-Beaumont complex would be a preferential outlet for milk produced both in the northeastern Texas region and near the cities just mentioned.

In his exceptions to the recommended decision, the Lufkin handler objected to the retention of the present price difference between Lufkin and the Tyler-Marshall area. Although recognizing the general need under Federal orders for increasingly higher prices from north to south, the handler claimed that special consideration should be given to the competitive situation existing in the Tyler-Marshall-Lufkin area. It was his position that this area is a common marketing area for plants located in these cities and that this warrants the same Class I price at all three locations.

As indicated, Lufkin is located roughly half way between the Tyler-Marshall area and the Beaumont-Houston area, with such areas being some 200 miles apart. For the reasons already noted, the price structure adopted herein is necessary to recognize the distances between plants to which milk is delivered

by producers located throughout the eastern portion of Texas and the differing values that attach to milk at each location.

One of the handlers operating a distributing plant at Tyler likewise opposed the price structure that was recommended for the eastern Texas area. He contended in his exceptions that the present Houston Class I price is 10 cents too high relative to the Dallas price. This, he claimed, results in prices at Tyler and Texarkana that are too high relative to Dallas since prices at these locations are based on the Houston price.

The present Dallas-Houston price relationship—which reflects a price difference of 1.5 cents per 10 miles—was not contested at the merger hearing by the handler and the basis or need for a lesser price difference between Dallas and Houston was not explored. The 36-cent price difference for these two cities was established in December 1970 following a careful review of the then existing price relationship. The record of the current proceeding does not indicate in any way that the 36-cent price difference is now inappropriate and resulting in disorderly marketing conditions. The present Dallas-Houston price relationship should be continued.

A handler who operates a pool distributing plant at Abilene proposed that the Abilene Class I price be reduced 10 cents. The handler stated that this would improve the price alignment between Abilene handlers and competing handlers who have lower Class I prices. This proposal was supported by the operator of the other distributing plant in Abilene but was opposed by the cooperative association supplying these handlers.

Abilene, which is located 185 and 150 miles, respectively, west of Dallas and Fort Worth, has a 25-cent higher Class I price than plants at these two locations. This location value of milk at Abilene is reasonable relative to the value of milk at Dallas and Fort Worth. The handlers who operate the distributing plants in Abilene also operate distributing plants in the Dallas-Fort Worth area. Although these handlers complained that the 25-cent higher price in Abilene gives Dallas-Fort Worth handlers a competitive advantage, neither one of these handlers has started serving his fluid milk sales in the central west portion of the Texas marketing area from plants in the Dallas-Fort Worth area. Presumably, this is because there would be little or no price advantage under this arrangement.

Lowering the price of milk at Abilene by 10 cents per hundredweight also could jeopardize the milk supplies of these two plants because many of the dairy farmers delivering to the Abilene plants would have higher-valued alternative outlets for their milk. A majority of the Texas producers who deliver milk to handlers regulated under the present Central West Texas order are located in the eastern segment of that market. Handlers located in San Antonio also receive substantial quantities of milk from dairy farmers in this same region. Producers located in Brown, Comanche,

Erath and Hamilton Counties represent about 30 percent of all the producers delivering to Central West Texas handlers and 20 percent of all the producers delivering to San Antonio handlers.

Until recently, a supply plant under the Central West Texas order was located at Dublin, which is in Erath County. Dublin is about 95 miles east of Abilene and 210 miles north of San Antonio. The price in San Antonio is 17 cents higher than the price in Abilene. Any lowering of the price in Abilene relative to the price in San Antonio would provide producers in these four counties that presently are delivering to Abilene with a more attractive alternative market.

The Class I prices now applicable at the plants regulated under the separate orders result, of course, from the various pricing provisions of these orders, including the location adjustment provisions. Having concluded that such price levels should be retained under the merger, it is necessary to integrate the order prices prevailing throughout the adopted marketing area into a single pricing scheme that retains the current inter-plant price relationships. Also, it is necessary to establish a Class I price for all locations in the marketing area even though plants are not now located there.

The most feasible method of doing this is the establishment of 12 pricing zones within the combined marketing area. Each zone would contain only those regulated plants, except for the Gonzales plant, that now have the same Class I price. In addition to the county or counties in which such plants are located, each zone also would include those additional counties that might reasonably be considered a part of the pricing zone even though no plant is now located there. The counties to be included in each zone were set forth at the outset of this discussion on the Class I price.

The counties in each zone differ somewhat from those that were proposed by the merger proponent. Since the differences occur only with respect to those counties in which there are no pool plants, they would have no impact upon regulated handlers. There is, however, an unregulated manufacturing plant at Navasota (Grimes County, which is in the South Texas marketing area) that would be in a lower price zone than that proposed by the cooperative. To the extent that producer milk is diverted to this manufacturing plant, such milk would be priced 16 cents less per hundredweight than would be the case under the cooperative's proposal. However, the adopted price for this plant corresponds very closely to the present South Texas Class I price at Navasota.

The price zones adopted herein reflect several considerations. In most cases, the present distributing plants that would be in each zone are located in or near major populated areas. Should new plants be located in any of the counties surrounding such a populated area, they would be expected to have a major part of their distribution in such area in competition with now existing plants. Each price

zone, then, should encompass those plants that are, or would be expected to be, in substantial competition with each other so that the plants will be subject to the same Class I price. Because the distance between such plants will be relatively limited, the value of milk delivered to such plants by producers should be the same throughout the price zone. The cooperative's proposed zone structure tended to differ from this concept in that the location of existing plants would be in many cases at the edge of a zone rather than at the center of it.

The price zones should tend to be somewhat elongated in an east-west direction, with price differences between neighboring zones limited to reasonably moderate amounts. This is necessary to have the price which is applicable throughout the zone properly related to the value which milk has at various locations within the zone. Some modification of the cooperative's proposal is necessary to carry out this concept, also.

Out-of-area location adjustments. Provision should be made also for location adjustments at plants located outside the Texas marketing area. The Class I price at plants located outside the area but in Texas and most of Oklahoma should be adjusted for location on a zone pricing basis but related to Class I prices under Federal orders applicable in those areas. At most other out-of-area plants, a minus location adjustment should apply to Class I milk at the rate of 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the Dallas City Hall, based on the shortest hard-surfaced highway distance as determined by the market administrator. No location adjustments should apply, however, at plants in Louisiana, New Mexico, or El Paso County, Texas.

The cooperative proposing the merger indicated that no price adjustment should apply at plants located in the States of Louisiana and New Mexico, in the Texas counties of El Paso and Hudspeth, and within 70 miles of Dallas. At plants beyond 70 miles that are outside these areas, the cooperative would apply a rate of minus 1.5 cents for each 10 miles or fraction thereof that such plant is located in excess of 70 miles from Dallas. At a plant located in Oklahoma, however, the cooperative proposed that the Class I price under the Texas order, as adjusted for location, should be not less than the Class I price under the Oklahoma Metropolitan order at such location.

In the 48 Texas counties that the cooperative proposed be included in the marketing area but which are excluded under this decision, the location adjustments under the cooperative's proposal, except for Bowie and Cass Counties, would approximate those adopted herein for such counties. The cooperative would apply no adjustment in Cass County. Bowie County and the City of Texarkana, Arkansas, would be in a minus 18-cent zone under the cooperative's proposal.

The proposal of a South Texas handler would establish somewhat different location adjustments for plants located out-

side the marketing area. Under this proposal, the Class I price would be reduced by 2.2 cents per hundredweight for each 10 miles or fraction thereof in excess of 70 miles that the plant is located from Dallas.

At a plant located in any of the southwestern Texas counties that are outside a Federal order marketing area, the Class I price should be the Class I price applicable at Midland, San Angelo, San Antonio or Corpus Christi, Texas, whichever city is nearest to the plant. This group of counties is surrounded on the north and east almost entirely by the adopted Texas marketing area and on the south and west by the Mexico-United States border. The area is very sparsely populated and generally not conducive to the production of milk. Although it is unlikely that a pool plant would be located in this area, an appropriate Class I price nevertheless should be established for these counties. Any distributing plant located in one of these counties probably would have to compete with regulated handlers in the nearest of these cities for a supply of milk. Thus, the minimum price necessary at such a plant to attract an adequate supply of milk would be the price applicable at the nearest of these four cities.

A minus 9-cent location adjustment should apply at plants in and around Texarkana, Texas-Arkansas. This price zone should include Bowie and Cass Counties, Texas, and Little River and Miller Counties, Arkansas. This four-county area, which includes the City of Texarkana, is adjacent to the northeastern corner of the adopted marketing area. Two partially regulated distributing plants at Texarkana presently distribute some milk in that part of the marketing area.

If the Texarkana plants should become regulated under this order, a Class I price 9 cents below the Dallas price would be necessary to reflect the value of milk at this location. Texarkana is about 70 miles north of Marshall, 120 miles northeast of Tyler and 300 miles north of Houston. The Class I price at Texarkana would be 15 cents less than the price at Marshall and Tyler and 45 cents less than the price at Houston. As set forth previously, prices at plants in this East Texas area must reflect the location value of milk at various locations relative to the price of milk in Houston. The price differences adopted herein reflect the increasingly higher Class I prices from north to south that are necessary to obtain an adequate supply of milk at various locations in the eastern part of Texas. These price differences should maintain a reasonable price alignment among distributing plants in the Texarkana area and at Marshall, Tyler and Houston and intermediate locations.

In establishing the Class I price levels for other out-of-area locations, recognition should be given to the prevailing price levels established for certain nearby federally-regulated markets. The orders involved include the Texas Panhandle, Lubbock-Plainview, Red River

Valley and Oklahoma Metropolitan orders. As past experience has shown, distributing plants located in nearby markets can develop sufficient Class I sales in the Texas area to become regulated under the Texas order. It is appropriate, then, that the Texas order recognizes the location value of milk at these plants.

The Class I prices established under the various orders just listed have been determined through the hearing procedure to be the minimum price necessary to attract an adequate supply of milk within the applicable market. Should a plant located in one of these neighboring markets become regulated under the Texas order, this would not change the minimum price necessary to attract an adequate supply of milk to that plant on a normal and regular basis. If the price were allowed to decrease, for example, because the plant became regulated under the Texas order, the supply of milk available to the plant could be jeopardized over a period of time. Producers supplying milk to the plant would seek the higher-valued alternative market represented by the other plants that remain regulated under the other order. On the other hand, a price higher than that provided under the other order reasonably could be concluded to be higher than is necessary to attract milk to that location. It is appropriate, therefore, to have the Class I price under the Texas order reflect the level of the Class I price established under the other orders for plants located in certain nearby markets.

To implement this arrangement, the order should provide for several pricing zones that generally correspond with the areas where the various Class I price levels under the other orders apply in these nearby markets. Accordingly, the following location adjustments should apply at plants in the zones indicated:

- (1) The area now comprising the Texas portion of the Texas Panhandle marketing area, plus Lipscomb County, Texas—minus 7 cents.
- (2) The area now defined as the Lubbock-Plainview marketing area, plus Parmer County, Texas—plus 10 cents.
- (3) The area now comprising the Texas portion of the Red River Valley marketing area—minus 12 cents.
- (4) The Oklahoma counties of Comanche, Cotton, Jefferson, Stephens and Tillman (which zone included the city of Lawton)—minus 24 cents.
- (5) The Oklahoma counties of Carter, Love and Marshall (which zone includes the city of Ardmore)—minus 27 cents.
- (6) The Oklahoma counties of Beckham, Greer, Harmon and Jackson (which zone includes the city of Elk City)—minus 28 cents.
- (7) The Oklahoma counties of Caddo, Canadian, Cleveland, Garvin, Grady, Johnston, Kiowa, McClain, Murray, Oklahoma, Pontotoc, Pottawatomie, Seminole and Washita (which zone includes the cities of Oklahoma City and Norman)—minus 34 cents.
- (8) Most of the counties in the northern half of Oklahoma (as listed in the attached order)—minus 44 cents.

This reflects a minor change from the proposed pricing set forth in the recommended decision. In that decision, it was provided that the location adjustment for plants located in the nearby markets be the amount by which the Zone 1 (Dallas) Class I price differs from the Class I price applicable at such plant when pooled in that market. Such adjustment would have been a plus amount if the Zone 1 Class I price was lower and a minus amount if such price was higher.

Under the initially recommended procedure, the Class I prices for the several out-of-area zones would have been whatever prices were established under the orders for the neighboring markets. Accordingly, such zone prices could have been changed on the basis of amendatory proceedings for the other markets rather than for the Texas market. Although the need for coordinating the Texas order prices with those in nearby markets remains, it would be preferable that the Texas order prices at all locations be fixed on the basis of a hearing for the Texas market.

The several out-of-area zones established herein do not include zones for New Mexico, El Paso County in Texas, Louisiana and Arkansas. Such zones had been set forth in the recommended decision. Plants in Arkansas should be subject to location adjustments determined on the basis of the 1.5-cent rate as measured from Dallas. No location adjustments should apply at this time in New Mexico, El Paso County and Louisiana. This pricing was proposed by the merger proponent and was uncontested by other parties. Because the latter areas are located generally east or west of the proposed marketing area, there is some question as to what may be the appropriate price for plants located in such areas should the plants become associated with the Texas market. No Texas order plants are now located in these areas and there was no indication that this might be the case later. Therefore, the Dallas zone price should apply until such time as there may be reason to explore this pricing in the context of an actual operating situation.

Two distributing plants located in adjacent markets are now regulated under orders involved in the merger. A plant at Burkburnett, Texas, which is pooled under the San Antonio order, is located in the Red River Valley marketing area. A plant pooled under the North Texas order is located at Elk City, Oklahoma, which is in the Texas Panhandle marketing area. Under the adopted location adjustment provisions, the Class I price now applicable at the Burkburnett plant would be continued. The present Class I price at the Elk City plant, however, would be increased 15.5 cents per hundredweight. An increase of 10.5 cents was proposed by the merger proponent. The Elk City plant operator did not testify at the hearing.

The North Texas Class I price at Elk City is based on a location adjustment rate of 1.5 cents for each 10 miles or fraction thereof that the plant is from the Dallas city hall. Elk City is 290 miles

northwest of Dallas. This results in a Class I differential of \$1.885 at the Elk City plant. Under the Texas Panhandle order, the Class I differential at the Elk City plant is \$2.04, or 15.5 cents above the North Texas price at this location.

The Class I price at Elk City based on the transportation rate of 1.5 cents per 10 miles from Dallas does not reflect the proper value of milk under the merged order at the Elk City location. It multiple basing points were used under this order for determining location adjustments at plants located outside the marketing area, the price at Elk City probably would be based on its distance from some location in the present Central West Texas marketing area, such as Abilene or Midland. The present Class I differential at these cities, which will be continued, is \$2.57. Elk City is located north of Abilene about 235 miles and 360 miles northeast of Midland. Based on the 1.5 cents per 10 mile transportation rate, the Texas Panhandle Class I price at Elk City more closely reflects the actual location value of milk at Elk City relative to the value of milk at regulated plants at Abilene and Midland than does a price based on Dallas. Adjusting the prices at Abilene and Midland back to the Elk City location, the Class I differential at Elk City would be \$2.21 and \$2.03, respectively, which may be compared with the \$2.04 differential adopted herein.

It should be noted further that if the Elk City handler procures supplemental milk from either the Hillsboro or Wichita, Kansas, pool plants the Class I price at either of these locations plus transportation would be about 10 cents higher than the Class I price established under the Texas Panhandle order at Elk City and adopted herein for that location. Thus, the higher Class I price that would be applicable under the merged order to the Elk City handler, relative to his current price under the North Texas order, must be considered as being reasonably aligned with Class I prices at other relevant locations.

The producers who supply the Elk City plant should be compensated for the economic service to this plant of making milk available to it. Unless the Texas Panhandle price level is maintained at this plant, producers delivering to the plant eventually will seek alternative outlets where the Class I price is more commensurate with the location value of their milk.

At a plant located outside the areas described above, the location adjustment should be minus 1.5 cents per hundred-weight for each 10 miles or fraction thereof that such plant is located from the Dallas, Texas, city hall. Such distance should be based on the shortest hard-surfaced highway distance as determined by the market administrator.

Plants that would be subject to this adjustment generally will be those located in the northern supply area in Kansas and Missouri. Texas pool plants are now located at Wichita and Hillsboro, Kansas. Location adjustments computed at this rate for plants located in this general area north of Dallas will reflect

the lesser location value of milk for this market at the more distant northern plants relative to plants nearer the marketing area. Such adjustments will provide uniform pricing to handlers for milk received at the market from distant plant locations and will reflect the appropriate economic value of milk to producers in consideration of the point of delivery of their milk.

Any greater location adjustment rate for plants located outside the marketing area would not result in the proper alignment of prices in the Texas market with prices in markets to the north. As described earlier, intermarket price relationships historically have been based on a transportation rate of 1.5 cents per 10 miles. The use of a different rate would need to be coordinated with a review of this issue for a much broader region than is involved here.

Location adjustment credits. A handler regulated under the South Texas order proposed that handlers receive a Class I price credit on producer milk received and processed in one price zone and then distributed into a lower-priced zone. The credit would be equal to the difference in Class I prices applicable in the two zones. The proposal should not be adopted.

The price established under the order at each plant location is the price that is considered necessary to bring forth an adequate supply of milk at that location. To reduce the price at any location because the handler has route distribution into a lower-priced zone could jeopardize the ability of the handler to continue to receive an adequate supply of milk. Further, such a provision could undermine the effectiveness of the Class I pricing provisions to bring forth an adequate supply of milk for the entire market.

The proponent handler claimed in his exceptions to the recommended decision that the lack of price credits on sales made in lower-priced zones precludes a handler from distributing milk in areas generally north of his processing plant. It was his contention that the further south a plant is the less area there is left in which a handler can effectively compete for fluid sales.

The need for increasingly higher Class I prices from north to south already has been indicated herein. It is recognized that handlers generally cannot compete as effectively in lower-priced areas as in their own local area or in the higher-priced zones. But this is not the fault of the regulatory program, as implied by proponent. In the absence of regulation, prices in Texas still would be expected to increase from north to south. Handlers, in this case, would be faced with the same competitive situation as now. The order should not provide the relief sought.

In conjunction with its pricing proposal, the merger proponent urged the continuation of the North Texas order provisions that preclude the application of location adjustments under certain conditions. A supply plant some distance from the market, for example, may ship producer milk to a distributing plant, with the two plant operators claiming a Class I use of the milk. Normally, the

pool obligation of the supply plant operator for the producer milk transferred as Class I milk would be the Class I price as adjusted for the location of his plant, rather than the f.o.b. market price. There may be those cases, however, where the distributing plant receiving supply plant milk has sufficient milk from local direct-ship producers to cover most or all of its Class I sales. In this situation, the supply plant milk is not needed at the market for Class I use and the North Texas order, and four of the five other orders to be merged, would not apply a Class I price location adjustment at the supply plant. Thus, the supply plant operator would not receive the location adjustment credit (equal to the amount of the location adjustment at his plant) otherwise applicable with respect to his pool obligation for the Class I producer milk so transferred.

The basic concept of this limitation on location adjustment credits should be carried forth under the merged order. A distributing plant operator should be encouraged to use locally-produced milk first for his Class I needs. If a handler were permitted to bring in supply plant milk for Class I use and channel the local supply into lower-valued uses, this would result in a lowering of returns to producers on the market. This is because the Class I milk involved would be priced not at the location of the distributing plant but rather at the supply plant location where the Class I price is lower. This would subvert the intent of the Class I price level at the distributing plant, which is to attract milk to that location for Class I use. It is this price level, then, that must be reflected in the returns to producers.

To adapt this concept to the pricing structure adopted herein (which includes the announced Class I price for Zone 1 with plus or minus price adjustments at other locations), it is necessary that the location adjustment credit provisions differ somewhat from those proposed by the merger proponent. The basic intent, though, is to insure that producers on the market do not have their returns lowered through the granting of price credits on milk unnecessarily moved between pool plants for other than Class I use.

In this connection, location adjustment credits should not apply to Class I milk shipped by pool plants to lower-priced zones. Although this would not be a usual movement of milk, such movement could occur in situations where a plant in the southern part of the marketing area received milk in excess of its fluid requirements, and sought to market such excess with handlers in San Antonio, for example. The Class I price levels established at the southern locations of the market are contemplated to attract milk to these areas for Class I use there, not for reshipment to lower-priced zones. The latter should not be encouraged through the granting of price credits on such milk movements. If the prices provided tend to attract greater quantities of milk than are needed locally, then consideration

should be given to whether a lower price should be provided.

Distributing plants relying on supply plant milk for Class I use should be encouraged to draw such milk from the nearest plant or plants. It is possible that near-in supply plant milk might be claimed as having been used in Class II, for example, while an equivalent amount of more distant supply plant milk received at the city might be claimed as having been used in Class I. Although the more distant plant would be eligible for a location adjustment credit under the provisions adopted herein, such credit would be limited, in this example, to the lesser credit that would have been applicable to the near-in supply plant milk had it been classified as Class I milk.

It should be noted at this point that the location adjustment credit provisions in the attached order reflect a slight modification from those set forth in the recommended decision. In computing such credit, it must be determined how much Class I utilization at the transferee-plant is to be passed back to the transferor-plants. The recommended decision provided that this amount would be the transferee-plant's Class I utilization remaining after subtracting any receipts of other source Class I milk and 95 percent of the receipts of producer milk. However, the Class I utilization should be reduced also in this particular computation by any receipts of packaged Class I milk from other pool plants. Failure to do so would base the need for supply plant milk at the distributing plant on an inflated Class I utilization at the latter plant. Moreover, location adjustment credits are, in effect, automatically allowed on interplant transfers of packaged milk from a lower-priced zone since the milk in all cases is priced at the plant where packaged.

Pricing milk not needed for Class I use. The Class II price under the merged order should be the basic formula price for the month plus 10 cents. The Class III price should be the basic formula price for the month. These prices should be announced by the 5th day after the month to which they apply.

Such prices are now applicable under each of the six orders to be merged. They were adopted for all but the South Texas order in conjunction with the 39-market classification proceedings referred to earlier in this decision. The South Texas order pricing was coordinated with that of the other orders on the basis of an interim decision resulting from this merger proceeding. As previously indicated, the merger hearing was held after the issuance of revised recommended decisions for the classification proceedings but prior to the Department's final decisions.

At the merger hearing, there was general agreement among producers and handlers that the Class II price should be set at 10 cents over the basic formula price. It was proposed, however, that such price for the month be announced on the 5th day of the preceding month and be based on the basic formula price

for the second preceding month. Handlers testified that in the absence of advance pricing they are disadvantaged by not knowing the cost of producer milk for Class II use until after the end of the month in which the milk is processed. They contended that when there is a significant increase in the Class II price the delayed announcement of the increase prevents them from adjusting their resale prices on a timely basis.

A similar proposal by handlers was denied in the 39-market proceedings, as well as in connection with the interim action on the South Texas order. This merger proceeding does not present changed circumstances that require a different conclusion with respect to the Texas market. The proposal is therefore denied.

With respect to the Class III price, the merger proponent urged that such price be the lower of the basic formula price or a butter-nonfat dry milk formula price. For the months of March through July and December, however, the cooperative proposed that this price level be reduced 14 cents.

Similar pricing for Class III milk was proposed for Texas and other southwestern markets by the cooperative in connection with the 39-market classification proceedings. The basic justification for this price level as presented by the cooperative at the merger hearing generally paralleled that presented at the classification proceedings. There is no basis for establishing a Class III price for the Texas market different from that just recently found appropriate for the separate orders.

Butterfat differential. A single butterfat differential should apply under the merged order. It should be computed by multiplying the average Chicago 92-score butter price for the month by 0.115, and rounding such amount to the nearest 0.1 cent. The differential should be announced by the market administrator by the 5th day after the end of the month in which it applies. This differential is now applicable under the separate orders and was adopted in conjunction with the uniform classification plan now in use.

A handler proposed that a butterfat differential to adjust Class I and Class II prices be computed by multiplying the Chicago 92-score butter price for the second preceding month by 0.115. Such differential would be announced on the 5th day of the month for the following month.

The appropriate butterfat differential was an issue dealt with in the 39-market proceedings. The evidence of record does not furnish sufficient support for departing from the provisions just recently adopted for the separate orders. The proposal is denied.

(d) *Distribution of proceeds to producers.* A marketwide pool should be used under the merged order as a means of distributing among all producers in the market the total proceeds derived from the use of all producer milk by all regulated handlers. Under marketwide pooling, a uniform price is paid to all produc-

ers regardless of how a particular producer's milk is used by the handler to whom it is delivered. By receiving payment at the uniform price, each producer shares in the higher-valued Class I milk in the market as well as in the lower-valued Class II and Class III uses of milk. This type of pooling is now being used in five of the individual markets to be merged and was proposed for use under the merged order.

In the Austin-Waco market, producers are now paid through individual-handler pools. Under this arrangement, a uniform price is determined for each handler rather than for the market, with the price for each handler reflecting the classified use value of all producer milk received by that handler. Only two distributing plant operators were regulated under the Austin-Waco order at the time of the hearing. From a practical standpoint, there will be little impact on these handlers or the producers supplying them in changing to a marketwide pooling arrangement in this segment of the Texas market.

Payments to producers. The merged order should provide that handlers pay all order obligations for milk to the market administrator, who in turn would distribute such money, in terms of the uniform price, to producers, cooperative associations and handlers who elect to pay their non-member producers.

Under the separate orders, producers are now paid by the handlers receiving their milk. It is necessary under this arrangement, however, that part of the money paid by handlers with higher than market-average Class I utilization be used in paying producers supplying other handlers with less than market-average Class I utilization. This exchange of money between handlers is accomplished through a "producer-settlement fund" operated by the market administrator. Handlers with higher than market-average Class I utilization pay any excess of the value of their producer milk over its value at the uniform price into this fund. Other handlers receive from the fund payments that are included in the uniform price they pay to producers.

The cooperative advocating the merger proposed that the market administrator collect from handlers all order payments due producers. Under the cooperative's proposal, each handler would make partial payments to the market administrator by the 25th day of the month for milk received during the first 15 days of the month. The payment rate would be the Class III price for the preceding month. The remainder of the handler's obligation for milk received during the month would be paid to the market administrator by the 13th day of the following month.

Following the receipt of the partial payments by handlers, the market administrator would pay producers such monies by the last day of the month. The cooperative's proposal would require final payments to producers by the market administrator by the 15th day after the end of the month. In those cases where a cooperative is collecting

the payments for milk of its members, the proposal would require partial and final payments by the market administrator two days prior to the date payments are due individual producers.

This payment schedule under the cooperative's proposal is predicated on the filing of handler reports of receipts and utilization by the 7th day of the month and the announcement of the uniform price by the 12th day.

Proponent urged the adoption of its proposed payment arrangement on the basis that this would provide handlers with a stronger incentive for making prompt payment of their order obligations. The cooperative claimed that since handlers tend to pay the market administrator on a timely basis all producer monies should be channeled through him rather than having handlers pay producers directly. Also, proponent contended that late payments by certain handlers result in an inequitable situation for those handlers making timely payments. This is because the delinquent handlers are using money due producers to overcome cash flow problems while the prompt handlers with similar problems must borrow money or use their own capital.

Some objection to this payment arrangement was expressed by handlers, primarily on the grounds that it would interfere with normal handler-producer relationships. A number of handlers in the Texas market are supplied by producers who do not belong to a cooperative association. It was claimed that in these cases handlers would have a better opportunity to maintain good relations with the producers supplying them if such producers are paid by handlers rather than by the market administrator. In this connection, a handler proposed that if the order does provide for payments to producers by the market administrator handlers nevertheless should be permitted to pay their non-member producers.

If the order is to serve the intended purpose of promoting orderly marketing in the Texas area, it is essential that handlers pay their order obligations on a timely basis. Under the customary arrangements of producers being paid twice a month, handlers have the use of producer milk for considerable periods of time before any payments for such milk are due. Producers should not be expected to wait beyond the scheduled times for their milk payments. Delayed payments not only foster uncertainty and discontent among producers but also place them in a difficult position with respect to meeting their own financial obligations on a timely basis.

From the standpoint of handlers, also, it is necessary that all order obligations be paid on time. Otherwise, the order could place those handlers who are in compliance at a competitive disadvantage with delinquent handlers who are using monies due producers as a free source of funds for operating purposes.

For these reasons, the Texas order should be structured to encourage prompt payments by handlers. Although

the method now provided under the separate orders for paying producers is basically a satisfactory arrangement, there are several aspects of the payment method adopted herein that will tend to provide producers with somewhat greater assurance that they will be paid for their milk deliveries on a timely basis.

Under a plan whereby all payments by handlers are made to the market administrator who in turn pays producers, the fact of payment to producers is a matter of the market administrator's immediate knowledge. When handlers pay producers directly, a failure to make full payment to producers by the dates specified in the order usually does not become known to the market administrator at the time of noncompliance. Some time may elapse before normal audit procedures reveal any payment irregularities.

Also, the payment plan adopted herein tends to be self-policing. Payment would not be made by the market administrator to producers delivering milk to a handler who fails to pay his obligation to the producer-settlement fund. Thus, such producers would be immediately aware of when the handler receiving their milk fails to pay his pool obligation. Presently, a handler may pay his producers the blend price while at the same time fail to pay an amount due the producer-settlement fund. In the absence of any knowledge of the handler's financial difficulties, the producers presumably would continue to ship milk to the handler. Only when the handler's financial problems become so great as to result in nonpayment to his producers would the producers realize the possible need for seeking a different outlet for their milk. Under the adopted payment procedure, the producers would be aware of the handler's financial difficulty in the first month of nonpayment. They then would be able to consider on a more timely basis the possible need for making other arrangements for the sale of their milk before the probable loss as a result of nonpayment mounts to the point that the producers would be placed in a severe economic bind.

In addition, the adopted payment procedure should reduce current pressures on cooperative associations to grant credit to handlers who may be delinquent in payment of the uniform price for milk received from member producers. The tendency for extension of credit by cooperatives should be minimized when handlers are required to make payments for producer milk directly to the market administrator rather than to the cooperative.

Recognition should be given under this payment arrangement to the desire of handlers to pay the producers supplying them with milk. Such payments should be permitted with respect to those producers for whom a cooperative is not collecting payments. For all practical purposes, this generally would include only those producers who are not members of a cooperative association.

As provided herein, the handler would be required to pay his full obligation for milk to the market administrator in the

same manner as other handlers who are not paying producers directly. This would be so in the case of both the partial and final payments. Upon receipt of the proper payment, the market administrator then would transfer sufficient money to the handler so that he could pay his producers.

A handler contended in his exceptions that under this arrangement there is no need for the money that a handler pays to his producers to be transferred first to the market administrator. A basic purpose of changing to the payment method adopted herein is the encouragement of timely payments by handlers. To effectively implement this concept, it is desirable that the handlers purchasing milk from nonmembers as well as those obtaining milk from a cooperative pay their order obligations to the market administrator by the dates prescribed herein. Through this means, the market administrator will be immediately aware in the case of all handlers of a handler's inability to meet his order obligation.

Any handler who the market administrator determines is delinquent with respect to any payment obligation under the order should not be eligible to receive money from the market administrator for payment to producers. Any transfer of money by the market administrator to a handler in this circumstance would remove much of the incentive for a handler to consistently comply with the order's payment requirements. So that there might be a reasonable demonstration of compliance with the order, a delinquent handler should not be eligible to pay his producers until he has met all prescribed payment obligations for three consecutive months.

In his exceptions to the recommended decision, a handler urged that this three-month requirement not be adopted. He pointed out that late payments to producers do occur occasionally because of human error. It was his contention that the three-month requirement classifies such human errors the same as a deliberate late payment or nonpayment by a handler and penalizes the handler to the same degree in either case.

It is quite possible that a late payment to producers by a handler may occur unintentionally. There is no practical way from an enforcement standpoint, however, to distinguish between intentional and unintentional late payments. Even if there were such a way, it is questionable whether there should be any relief from the three-month requirement. As stated earlier, the purpose of the adopted producer payment method is to provide producers with greater assurance that they will be paid for their milk deliveries on a timely basis. It must be recognized that under this new payment method permitting a handler to pay his nonmember producers is to a certain extent no change from the present payment method. If the order is to allow handlers the option of paying nonmembers, it is necessary that there be some incentive to pay their producers on a timely basis. In the absence of this incentive, such as losing their eligibility to

pay producers for a three-month period, handlers may tend to become lax in their payment procedures.

Handlers expressed concern in their exceptions that providing for the payment of producers by the market administrator will result in higher administrative assessments on handlers. This is not likely.

A very large proportion of the producers in the Texas market are members of cooperatives. It is expected that the individual members will be paid by the cooperatives, not by the market administrator. The latter would need only to transfer a lump-sum payment to the cooperatives for further distribution among their members. Also, it is presumed that most of the handlers receiving milk from nonmembers will elect to pay such producers. In this case, also, the market administrator would be making only lump-sum payments to the handlers, not payments to individual producers.

Under the adopted payment procedure, it is imperative that the payments received by the market administrator from handlers represent sound money. This is necessary, of course, under the present payment arrangement. However, because the new procedure will result in substantially greater amounts of money being transferred in and out of the producer-settlement fund, receipt of a bad check of a substantial sum could render such fund insolvent.

With the payment schedule adopted herein, the market administrator will need to make payments to cooperatives and certain handlers the day after the payments are due to him from all handlers. Such payments will have to be made with the belief that the checks received from handlers and deposited in the producer-settlement fund are, in fact, good. Time will not permit the clearance of such checks through the banks prior to the withdrawal of money from the producer-settlement fund. The need for the market administrator to receive only sound money is thus obvious.

The attached order does not prescribe the specific means by which handlers shall make payment to the market administrator. The need for such specificity should be based on actual experience in the market. As long as handlers make full payment by the prescribed payment dates and their checks are good, there is no problem. However, if the market administrator, because of prior experience or for other reasons, does not have reasonable assurance that payments tendered would represent sound money, it is necessary that he have the administrative discretion to prescribe the means of acceptable payment.

Under the terms of the order, the market administrator has the authority to make rules and regulations to effectuate the terms and provisions of the order. Should there be an urgent need for greater specificity with respect to the procedures for making payments, this may be accommodated through the promulgation of appropriate administrative rules with the approval of the

Director of the Dairy Division and in consultation with the local industry.

It is appropriate to note at this point an apparent misconception on the part of certain handlers as to how interbank transfers would be implemented should this means of payment be used. In their exceptions, two handlers expressed concern that this means of payment would provide the market administrator with direct access to a handler's bank account. This, of course, is not possible. The interbank transfer of money from the handler's bank account to the market administrator's bank account could occur only at the direction of the handler.

A schedule of payment dates somewhat different from that suggested by the merger proponent should apply under the merger. As provided herein, handlers would be required to make a partial payment for milk received from producers or a cooperative bulk tank handler during the first 18 days of the month. Handlers would be required to report such receipts to the market administrator by the 24th day of the month. Payment for such milk by the handlers would have to be received by the market administrator by the 26th of the month. On the 28th of the month, the market administrator would distribute these payments to producers who do not receive their payments through a cooperative association or from a proprietary handler who has requested the option of paying his own producers. In the case of producers receiving their payments from a cooperative or proprietary handler, the market administrator would make payments to such parties a day earlier so that payments to the individual producers could be made at the same time as for other producers.

The rate of the partial payment would be the Class III price for the preceding month. This rate is now used under the individual orders in making partial payments to producers, and producers urged that it be continued.

Final accounting for milk from producers and cooperative bulk tank handlers would be completed after the end of the month. Handlers would be required to submit to the market administrator a report of such receipts by the 6th day after the end of the month and a report of all receipts and utilization by the 7th day. The uniform price would be announced by the 13th day. Final payment by handlers at the classified use value for all milk received during the month would have to be received by the market administrator by the 16th day after the end of the month. Payments due producers would be distributed by the market administrator by the 17th day to cooperatives collecting for members and to proprietary handlers who elect to pay their own producers. Individual producers who do not receive their payments through a cooperative association or a proprietary handler would be paid by the market administrator on the 18th day after the end of the month.

The dates set forth above reflect a slight modification of the payment dates

prescribed in the recommended decision. Initially, it was indicated that a handler's payments to the market administrator should be made by the 24th day of the month in the case of the partial payment and by the 14th day after the end of the month with respect to the final payment. Under that schedule, it was intended that payments by mail, for example, would have to be postmarked by the specified date.

As noted earlier, the attached order does not prescribe the means by which a handler must make payment to the market administrator. Unless some specificity in this regard is found necessary later, handlers should be given the flexibility of using whatever payment means they wish. The only requirement would be that a handler's payment must be received by the market administrator by the prescribed dates. Such dates would be the 26th day of the month for the partial payment and the 16th day after the end of the month for the final payment. Payments not received by these dates would be considered late and subject to the charge on overdue accounts. Under this arrangement, each handler, of course, will have to determine what means of payment will result in timely payments for him.

Recognition was not given in the recommended decision to occasional conflicts between scheduled payment dates and weekends. It is desirable that producers be paid as soon as possible. For this reason, the payment schedule adopted herein purposely leaves little time between the dates when handlers must make payments to the market administrator and when payments must then be made to producers by the market administrator and handlers. However, should a payment date fall on a weekend when offices normally are not open for business, the "tight" payment schedule could not be adhered to in all cases.

Accordingly, if the date by which payments must be received by the market administrator, or made to producers, cooperatives or handlers, falls on a Saturday or Sunday or on a Monday that is a national holiday, payments should not be due until the next day on which the market administrator's office is open for public business. Further, the order should provide that when the partial or final payments are so delayed, the corresponding payments by the market administrator to handlers, cooperatives and producers, as well as the subsequent payment by handlers to producers, may be delayed by the same number of days.

This schedule of reporting and payment dates will result in producers receiving their final payment for milk as soon as possible after the end of the month. Although the final payment would be made three days later than proposed by producers, adequate recognition must be given to the time that it will take to get handler reports and payments to the market administrator by mail. This is particularly significant in view of the very large geographical area to be encompassed by the Texas market.

It will be noted that even under the schedule adopted herein there is not sufficient time between the announcement of the uniform price and the date handlers must pay the market administrator to permit timely notification by mail of each handler's obligation. It is contemplated that the market administrator will need to notify handlers immediately by telephone of their order obligations, with written confirmation to be supplied later. Similarly, the adopted schedule contemplates that payments by the market administrator to proprietary handlers who are paying producers and to cooperatives collecting payments for members will be available by the next day for payment to individual producers. To assure this, it will be necessary for the market administrator to arrange for an interbank transfer of funds so that producer payments can be made on a timely basis.

Producers delivering milk under the six individual orders now receive a final payment for milk on the 15th day of the following month. Under the merged order, final producer payment would not be due until the 18th. Because of this, the partial payment for milk should cover a producer's deliveries during the first 18 days of the month rather than 15 days as is now provided under the individual orders.

In its exceptions, a cooperative association objected to the dates set forth in the recommended decision for announcing the blend price and for making the various payments. It urged the adoption of the various dates proposed at the hearing by the merger proponent. The cooperative claimed that producers should not be subjected to a three-day delay in being paid for milk just because of merging the orders. Also, the cooperative indicated that the payment dates under the Texas order would be different from those applicable in other Federal order markets in which the cooperative markets milk. This, it claimed, would cause difficulties for the cooperative in coordinating its computerized payroll procedures for members in the various markets.

It is recognized that for the first month under the merger most producers would be paid three days later than under the separate orders. From then on, however, the interval between payments would be the same each month. Although the initial delay in payments can be expected to be an inconvenience to producers, it is hardly conceivable that this would place them in dire financial straits. As already pointed out, the partial payment for milk would cover milk deliveries during the first 18 days of the month rather than during the first 15 days as at present. This should help offset the initial impact of the change in payment dates.

Although payroll procedures for cooperatives would have to be changed, the inconvenience that this may cause cannot be overriding in fixing the payment dates for the merger order. The coordination of payment dates among orders, although presumably desirable for regional cooperatives, would not be achieved even

if the payment schedule urged by the cooperative were adopted for the Texas order. It must be recognized by the industry that as regulated areas become larger through the merger of orders, more time will be required under the procedures now common used to comply with the various reporting and payment requirements of an order.

In making their partial and final payments to the market administrator for deposit in the producer-settlement fund, handlers would be permitted to subtract deductions authorized in writing by producers from whom milk is received. It is expected, of course, that the amounts deducted by handlers would be paid to the assignees by the time the handler payments are due the market administrator. This is necessary if all handlers are to be paying the minimum class prices for their producer milk by the dates required in the order. Such deductions for each producer should be limited to the value of his milk for the period concerned. The market administrator would take these deductions into account in making payments from the producer-settlement fund to producers, cooperative associations and proprietary handlers who elect to pay their producers.

It was pointed out by a handler in his exceptions that the order proposed in the recommended decision would not recognize partial payments that a handler may choose to make to his producers prior to the payment dates prescribed by the order and that the order, in fact, would preclude such payments. This was not intended and the attached order has been modified accordingly. A handler should be able to pay his producers as often as he wishes. The only requirement should be that the producers be paid at least the minimum prescribed amount by the time specified in the order.

Payments for milk from cooperative association plants. The cooperative proposing the merged order proposed that pool plant operators receiving bulk milk from a cooperative association's plant be required to pay for such milk in the same manner as it proposed for bulk tank milk received directly from the farm. This proposal should be adopted but only with respect to milk received from a plant regulated under the Texas order.

To a large extent, milk marketed by the proponent cooperative is moved to distributing plants directly from the farm. At the same time, however, some milk is moved to such plants, either on a regular basis or a supplemental supply basis, from the cooperative's supply plants and balancing plants in the market. Irrespective of the supply arrangement used, the producers involved are supplying milk for the fluid market and should be assured of receiving payment for their milk. Such assurance is essential to the orderly marketing of milk and the maintenance of an adequate supply of milk for consumers. Moreover, such a payment requirement is consistent with the Act, which provides that no cooperative association may sell milk to

any handler at less than the prescribed order class prices.

Accordingly, handlers receiving bulk fluid milk products from the pool plant of a cooperative should be required to make partial and final payments to the market administrator by the same dates as specified for handlers receiving milk directly from producers or a cooperative acting as a bulk tank handler. The partial payment, which would apply to receipts during the first 18 days of the month, should be at the Class III price for the preceding month, as adjusted by the butterfat differential for such preceding month. The final payment should be based on the classified use value of all bulk fluid milk products received during the month from the cooperative's plant. Upon receipt of the money, the market administrator would then transfer such funds to the cooperative.

In this regard, the Class I price to be used in computing a handler's obligation for plant milk from a cooperative should be the higher of the Class I prices applicable at the plants of the handler and the cooperative. Thus, in those cases where Class I milk is transferred from a cooperative's plant to a distributing plant in a higher-priced zone, the distributing plant operator would be obligated for such milk at the Class I price applicable at his plant. This price, in most cases, would reflect the value of the milk at the cooperative's plant plus the cost of transporting it to the distributing plant. This is the same price that would apply to Class I milk received at the distributing plant directly from producers or a cooperative acting as a bulk tank handler and thus provides uniformity of pricing among handlers.

Class I milk may be transferred, on the other hand, from a cooperative's pool plant to a pool distributing plant in a lower-priced zone. In this case, the distributing plant operator will be required to pay the cooperative (through the market administrator) for such milk at the Class I price applicable at the cooperative's plant. Payment at this price level is necessary if the payment provisions are to be consistent with the Act.

The Act states that a cooperative that is reblending the proceeds from the sale of its members' milk may not sell milk to any handler at less than the class prices applicable to the cooperative on such milk. Under the order, the cooperative would have to account to the pool for the Class I milk transferred from its plant to a lower-priced zone at the Class I price applicable at its plant. Since the cooperative could not sell the Class I milk at less than this price, this is the price that the buying handler must be required to pay. It is recognized that under this arrangement such a sale would be uneconomical to the buying handler and under most circumstances would not take place.

The order appropriately may not impose a payment requirement on a handler for milk received from an other order plant operated by a cooperative association if no pool obligation is applicable on such milk. Although such a proposal was suggested by the merger proponent, very limited attention was

given to this issue at the hearing, presumably because of the indication by proponent that Texas pool plants are not being supplied by other order plants.

To place a payment obligation on such transactions would in effect reprice milk on which a price obligation in accordance with actual use has already been imposed under another order. In this situation, the imposition of a payment obligation under the Texas order is neither necessary nor appropriate under the circumstances existing in the Texas market.

Advertising and promotion program. The merged order should provide for the continuation on a combined basis of the advertising and promotion programs now operating under the six orders.

The Agricultural Marketing Agreement Act provides that a Federal milk order may include provisions establishing research and development projects, advertising (excluding brand advertising), sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. Advertising and promotion programs, all with identical provisions, were first applicable under five of the six orders on November 8, 1972, with respect to marketings on and after January 1, 1973. An identical program was provided in the South Texas order on April 27, 1973, with respect to marketings on and after July 1, 1973. It was proposed by the merger proponent that these programs be continued on a combined basis under the merger.

A witness representing another cooperative association in Texas testified in opposition to the advertising and promotion program. At the time of the hearing, the witness was a member of two advertising and promotion agencies. Objections were directed basically toward what was described as low-key, non-brand name advertising in the Texas markets and the lack of any correlation between increased advertising and increased sales of milk.

Although no data were provided for the record to demonstrate the effectiveness of the advertising and promotion programs under the six individual orders, the program continues to carry out the purposes of the Act.

All funds for the operation of such a program would be made available only by producers who participate on a voluntary basis. Any producer who does not wish to participate may request a refund of the assessments made against his milk deliveries. In view of the support for the program by a substantial number of the producers supplying the proposed Texas market, it is concluded that the merged order should provide for an advertising and promotion program.

The cooperative opposing the continuation of this program reiterated its position in its exceptions to the recommended decision. For the reasons just stated, however, the advertising and promotion program should be included in the merged order.

The provisions of the advertising and promotion program adopted herein are identical to those contained in each of the separate orders except for those provisions necessary to effect an orderly transition from six separate programs to a single program for the Texas market. The program would be funded through a 5-cent per hundredweight assessment each month on producer milk pooled during the month. The market administrator would deduct the monies from the producer-settlement fund prior to the computation of the uniform price. All of the monies so deducted, except for certain reserves withheld by the market administrator to cover refunds and his administrative costs, would be turned over to and administered by an agency organized by producers and producers' cooperative associations under the order. The agency would be responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act.

To provide an orderly transition from the six individual advertising and promotion programs, certain procedures should apply during the initial operation of the program under the merged order. As adopted herein, the agencies established under the programs of the individual orders would continue to function during the first month of the merger as separate agencies under the provisions of the merged order. During this first month, steps would be taken under the order to select members for a new single agency. The new agency would become operative at the beginning of the second month of the merger and at such time would assume all advertising and promotion funds and obligations of the individual agencies.

For the one month of operation under the merger, the six individual agencies would retain their membership as established under the separate orders. The term of office of each member of each agency would expire at the end of such month. This would not preclude, however, their selection as a member of the new single agency.

Because of the very limited incumbency of the members of the individual agencies under the merged order, their activities should be limited essentially to the completion of "old" business, i.e., activities for which budgets have been approved by the Secretary and financial commitments made.

In organizing the new agency, the composition of the agency, as well as the eligibility of producers for agency membership, should be based on those producers who have not requested refunds with respect to milk marketed during the calendar quarter in which the merger becomes effective. When the present programs first became effective under the individual orders, all producers were considered as participating producers for purposes of determining agency composition and membership eligibility, irrespective of whether or not they were actually participating in the program. This was because the programs were new and a

history of participation had not been established. However, after the first year under the program, a producer was ineligible to serve as an elected agency member if he had requested a refund for the most recent calendar quarter. Also, the number of members on each agency was then based on the number of producers actually participating.

Since advertising and promotion programs essentially identical to the program adopted herein for the merged order are now in effect under the separate orders, a history to determine producer participation would be available at the outset of the merged order. Accordingly, the order should recognize a producer's past participation under the separate orders for the purpose of the agency's initial organization. Only those producers who have not requested refunds for the most recent calendar quarter under any order should be considered as participating producers.

The merger of the six orders can be expected to reduce somewhat the total number of agency members now serving under the individual programs. As adopted herein, the merged order, as now under the six orders, would provide that if a majority of the producers supplying the market are members of one cooperative, or combination of cooperatives, its representation on the agency would be limited to the minimum number of representatives necessary to constitute a majority of the agency's total membership. Although this was proposed by the major cooperative in the proposed Texas market, it was indicated that some higher minimum number of agency representatives might be desirable to insure adequate producer representation considering the number of dairy farmers and the wide geographic area that would be covered by the merged order.

Although a wide geographical representation on the agency may have merit, this would not necessarily occur under the agency selection procedure which the major cooperative proposed be continued under the merged order and which is adopted herein. Under such procedure, a cooperative that is authorized one or more agency members may select any person it may care to choose. Presumably, those chosen would represent the cooperative's position on advertising and promotion matters. Thus, it is questionable whether additional members on the agency for purposes of wider area representation would serve any practical purpose. Additional members would mean, of course, additional administrative expense for the agency. The prudent use of producer money for this program suggests in the final analysis that the agency membership be limited in the manner provided herein.

As under the present orders, the merged order should provide that any producer who does not want to participate in the advertising and promotion program will be eligible for refund of the assessments against his producer milk deliveries by filing an application with the market administrator. Such refund application would have to be sub-

mitted within the first 15 days of the month preceding the beginning of a calendar quarter for milk deliveries during such quarter. However, a new producer who enters the market after such deadline could request a refund with respect to his deliveries made between such time of entry and the beginning of the next quarterly period for which he could make a refund request in accordance with the regular schedule.

In this connection, a refund request filed by a dairy farmer under one of the six individual orders for the quarter in which the merger becomes effective should remain valid under the merged order for the remainder of such quarter without such person being required to file another request. On the other hand, a producer who elected to participate in the advertising and promotion program of one of the individual orders for the quarter in which the merger becomes effective should not be permitted to request a refund of the assessments against his deliveries of producer milk under the merged order until the next quarterly filing period. This latter requirement is appropriate since financial commitments by the agencies will have been made on the basis that such funds would be forthcoming for the entire quarter.

When the merged order becomes effective, all monies held by the market administrator to cover refunds and administrative costs associated with the advertising and promotion programs of the individual orders should be combined for similar use under the merged order. In making refunds for the first time under the merger, the market administrator should honor all valid refund requests filed under the advertising and promotion programs of the individual orders.

(e) *Administrative provisions.—Interest payments on overdue accounts.* The merged order should provide for interest payments on handler obligations that are overdue. Such interest should be at the rate of three-fourths of one percent per month (9 percent annually). Interest should apply beginning the day following the date on which payment of an obligation is due.

It is essential that all handler payments to the producer-settlement fund be made promptly in order that the market administrator will be able to make the required payments to producers. An interest charge on overdue accounts should provide an incentive to handlers to make their payments on time. Moreover, handlers who pay late are, in effect, borrowing money from producers. Without interest payments, handlers delinquent in their payments would have a financial advantage relative to those handlers making timely payments.

It should be noted that interest payments are not a substitute for prompt payments by handlers. Those delinquent in their obligations will be subject to legal enforcement action as authorized under the Act.

The adopted interest rate (three-fourths of one percent per month) was proposed by the merger proponent. This rate is currently applicable under the North Texas and South Texas orders.

No testimony was presented suggesting a different rate.

A handler proposed that the interest charge not apply until the third day following the date the payment is due. He contended that the three-day grace period is necessary to allow for delays in mail delivery.

If producers are to be paid on a timely basis, it is necessary that handlers meet their payment obligations on time. To provide a grace period before applying interest charges would, from a practical standpoint, merely be encouraging a delay in payments by handlers. With no penalty for being one or two days late, there would be no incentive to meet the prescribed payment dates.

Administrative assessment. The maximum rate of payment by handlers for the cost of administering the merged order should be 4 cents per hundredweight. Such payments are required if the market administrator is to perform the necessary function of administering the merged order.

Currently, the maximum rates under the separate orders are 4 cents per hundredweight for the North Texas, South Texas, San Antonio and Central West Texas orders and 5 cents per hundredweight for the Austin-Waco and Corpus Christi orders. The 4-cent rate should enable the market administrator to effectively administer the merged order. If experience indicates that the merged order can be administered at a lesser rate, the order provides that the Secretary may adjust the rate downward without the necessity of a hearing.

Marketing service deduction. With respect to payments to producers, the order should provide for a maximum deduction of 5 cents per hundredweight for marketing services furnished by the market administrator. Such deductions are necessary to enable the market administrator to conduct an adequate marketing service program for producers supplying the market.

The maximum rates now for such services are 5 cents under the North Texas, South Texas and Central West Texas orders, and 6 cents under the other three orders to be merged. The 5-cent rate, which was proposed at the hearing without objection, should permit the market administrator to conduct an adequate marketing service program for those producers not receiving such services (including weighing, testing and providing market information) from a cooperative association. If experience indicates that the services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Merger of the administrative expense, marketing service, and producer-settlement funds. To accomplish the merger of the six Texas orders effectively and equitably, the reserves in the administrative expense funds that have resulted under the individual orders should be combined. Similar procedure should be followed with respect to the marketing service and producer-settlement fund reserves of the individual orders. Any lia-

bilities of such funds under the individual orders should be paid from the appropriate new fund established under the merged order. Similarly, obligations that are due the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the individual orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the individual orders and then accumulate an adequate reserve for the merged order. It is equally equitable and more efficient to combine the administrative monies accumulated under the individual orders and to pay any liabilities against such funds from the consolidated fund of the merged order.

The money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrator is performing services. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the Texas market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement fund balances in the six orders should be combined so that the producer-settlement fund under the merged order may be continued without interruption. The producers currently supplying the individual markets are expected to continue to supply milk for the merged Texas market. Thus, monies now in the producer-settlement funds of the individual orders would be reflected in the uniform prices of the producers who will benefit from the merged order. The combined fund would also serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) accruing under one or the other of the separate funds.

Termination of order. Section 608c (16) (B) of the Act sets forth the following provisions concerning the termination of an order:

"The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representa-

tive period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order."

For the purpose of implementing the provisions of § 608c(16)(B), the merged order should include a definition of the term "current marketing period." Such term should mean "the first month following the date on which the Secretary publicly announces his finding that the termination of the order is favored by such majority of producers under the order as is prescribed by the Act."

The six orders under consideration do not now prescribe in specific terms what the marketing period shall be for purposes of implementing § 608c(16)(B), nor do they specify a date by which any termination of the order under this section must be announced. In connection with the development of a merged order, it was urged by certain parties that provisions covering these particular matters be included. Their position was prompted by past litigation involving the question of whether or not the Secretary was properly implementing the provisions of § 608c(16)(B) in response to a request by producers to terminate the South Texas order. Before resolution of the question by the court, the matter became moot with the withdrawal by producers of their request for termination.

Proposals relating to this issue were offered by two cooperative associations and a proprietary handler, all litigants in the case just cited. A cooperative representing a majority of the producers supplying handlers in the six-market area proposed that the merged order define a marketing period as "a calendar month or portion thereof." The cooperative indicated that this definition would give the Secretary the necessary flexibility in terminating an order whenever he finds that a majority of producers no longer favor the order. While the cooperative contemplated under this proposal that the maximum public notice of any termination would be 31 days, it indicated in its brief that up to 90 days' notice would not be inappropriate.

Another cooperative and a proprietary handler proposed that the marketing period be defined as "the fiscal year beginning April 1 and ending on March 31." They also proposed that any termination of the order under § 608c(16)(B) not be permitted unless announced at least 90 days prior to the end of the current marketing period.

Proponents of the April 1-March 31 marketing period indicated that this period would parallel, and would be consistent with, the marketing year used under the price support program for manufacturing grade milk. Under this program, the Secretary announces annually the support price for milk marketed during the period of April 1 through March 31 of the following year. In addition, proponents suggested that dairy farmers generally make production plans a year at a time, and that the biological production cycle of milk cows covers a year.

A minimum of 90 days' notice of any order termination was intended by proponents to provide handlers with at least this minimum opportunity to adjust their operations in light of the impending absence of regulation or possible regulation under another order. They claimed that both fairness and due process required a substantial notification period so that handlers could make necessary business adjustments to meet the competitive environment of an unregulated market should the dominant cooperative in the market elect to have the order terminated under § 608c(16)(B) of the Act.

The Act and its legislative history provide little, if any, guidance as to what may have been intended by the term "marketing period" as it relates to milk. The provisions of the Act have applicability also to other commodities, such as fruits and vegetables, and in these cases marketing periods are generally well defined by the cyclical nature of the growing and marketing seasons of the products. Such seasonal products are characterized by a usually brief period during the year when the products are harvested and marketed. This is not so with respect to the production and marketing of milk.

Milk is produced and marketed by dairy farmers on a continuous basis. Although the normal lactation period of a cow is about 300 days, the "dry" periods within a herd are customarily staggered. Thus, each dairy farmer has a continuing daily production of milk. Because of its highly perishable nature, such milk must be delivered within a day or two to plants for processing, the particular delivery schedule usually being dependent upon the storage capacity at the farm.

In view of this daily and continuous character of milk production and marketing, there is no well-defined marketing period for milk. Since the inception of Federal milk orders in the 1930's, however, milk has been accounted and paid for under the regulatory program on a monthly basis. At the end of each month, handlers are required to report all receipts of producer milk and make final payment therefor in accordance with the utilization of the milk during the month. Each successive month constitutes, in effect, a new marketing period for the producer and the handler. The consistent administration of milk orders on this basis over many years suggests that a defined marketing period

of any duration other than a month would be totally inconsistent with long-standing regulatory practice in the fluid milk industry.

The Act makes it optional as to the inclusion in an order of a date by which the termination of an order under § 608c(16)(B) must be announced. If no date is specified, the termination must be made effective at the end of the marketing period in which the Secretary finds that termination is favored by a majority of the producers. The absence of such a date could result in notice of termination to the industry of as much as a month or as little as a day.

Handlers and producers who have not requested termination of the order should have at least one month's advance notice of any impending order termination. It is correctly presumed by both handlers and producers that once an order is promulgated for a market it usually will remain in effect indefinitely. History of the Federal order program bears this out. Parties in the market, then, make their decisions on milk marketing with this degree of permanence of regulation in mind. Such decisions for handlers include sources of milk, purchase prices, areas of distribution, sales prices, margins, and duration and value of contracts, all of which might well be decided differently if it were known that they soon would be operating in the absence of order regulation, or perhaps under the terms of another order. Producers, likewise, are continually having to make decisions concerning an outlet for their milk and the terms of sale. These decisions, too, might be different in the absence of regulation. At least one month's advance notice of any order termination would give all parties having an association with the market an opportunity to reassess their operations and to make any desired changes.

The Federal Administrative Procedure Act requires that in the absence of emergency conditions any substantive rule evolving under a program such as the Federal order program shall be announced not less than 30 days before its effective date. Such Act also provides that notice is not required in the case of a rule that grants or recognizes an exemption or relieves a restriction. The withdrawal of an order in a market would relieve handlers from being subject to specific rules concerning their purchases of milk from dairy farmers (assuming no involvement with another regulated market). Notwithstanding this relief from regulation, the impact of becoming unregulated may well be as significant in terms of new operational decisions as when becoming regulated for the first time or becoming subject to substantive changes in an order. A minimum notification period of one month, then, would be consistent with administrative practice concerning notice of substantive rules.

The provisions adopted herein for implementing § 608c(16)(B) would result in the industry having from one to two months' advance notice of any order termination. The exact amount of time would be dependent upon the time of

the month when the Secretary publicly announces his finding that termination is favored by a majority of the producers in the market. A longer notification period, as urged by certain parties, would not permit a reasonably timely action by the Secretary on the request of a majority of the producers once they decide that they no longer want an order for their market.

In their exceptions, proponents of the April-March 31 marketing period opposed the Acting Administrator's conclusions regarding the matters dealt with under this issue and claimed that such conclusions were not based on the record evidence. The position of exceptors is not supportable and there is no basis for reaching a different position on the marketing period definition and notification period.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Rulings of the Administrative Law Judge to which specific objections were taken in the briefs have been reviewed. Objections were raised to the Administrative Law Judge excluding the admission of certain exhibits offered as evidence. These exhibits consisted of press releases and internal memoranda of the United States Department of Agriculture and of Associated Milk Producers, Inc. Objections were taken to the exclusion of these documents on the grounds that the documents would have been admissible in court under the Federal Rules of Evidence.

The Administrative Law Judge's ruling was that this is not an adversary proceeding and thus not subject to the same rules of evidence. He ruled that press releases are not suitable documents of evidence and that the preparers of the memoranda were not available for cross examination at the hearing.

The Administrative Law Judge's rulings have been reviewed in light of the arguments presented. These rulings, for the reasons stated by the Administrative Law Judge on the record, are hereby affirmed.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations

may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the Texas order, which amends and merges the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio and South Texas orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Texas marketing area, and the minimum prices specified in the tentative marketing agreement and the Texas order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the Texas order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the Texas order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1126.85 of the aforesaid tentative marketing agreement and the Texas order.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Certain parties excepted to the Department's failure to include within the scope of the merger hearing proposed provisions intended to prohibit certain unfair methods of competition and trade practices. The inclusion of such proposals in the hearing notice was denied by the Department prior to the hearing. Because this issue was not a part of the hearing and the subsequent deliberations in this proceeding, the points raised by these parties on this issue are outside the purview of this decision.

In its exceptions, these parties also contended that in several vital respects the hearing and the recommended decision disregarded certain minimal ele-

ments of procedural due process. Specific reference was made to alleged deficiencies in the initiation and scope of the proceeding, the conduct of the hearing, and the recommended decision.

The several points relating to the recommended decision have been dealt with in the findings and conclusions of this decision. With respect to the other alleged deficiencies, it is concluded that the procedures for the initiation and conduct of the hearing were carried out in accordance with the Agricultural Marketing Agreement Act, the Federal Administrative Procedure Act, and the Department's General Regulations (7 CFR Part 900) that set forth the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a **MARKETING AGREEMENT** regulating the handling of milk, and an **ORDER** amending and merging the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **FEDERAL REGISTER**. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order (except for the proposed Advertising and Promotion Program) amending and merging the aforesaid orders regulating the handling of milk in the aforesaid specified marketing areas is approved or favored by producers, as defined under the terms of the attached order, who during the representative period were engaged in the production of milk for sale within the marketing area defined in the attached order.

It is hereby further directed that a separate referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the proposed order provisions constituting the Advertising and Promotion Program in the attached order are separately approved or favored by the producers, as defined under the terms of the attached order, who during the representative

period were engaged in the production of milk for sale within the marketing area defined in the attached order.

The representative period for the conduct of these referenda is hereby determined to be January 1975.

The agent of the Secretary to conduct these referenda is hereby designated to be Chapman E. Dunham.

Signed at Washington, D.C., on May 2, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

ORDER¹ AMENDING AND MERGING THE ORDERS, REGULATING THE HANDLING OF MILK IN THE NORTH TEXAS, SOUTH TEXAS, SAN ANTONIO, CENTRAL WEST TEXAS, AUSTIN-WACO, AND CORPUS CHRISTI MARKETING AREAS

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Texas order, which amends and merges the aforesaid orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Texas marketing area, and the minimum prices specified in the Texas order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Texas order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held;

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(4) All milk and milk products handled by handlers, as defined in the Texas order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1126.85 of the attached order.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the North Texas, South Texas, San Antonio, Central West Texas, Austin-Waco, and Corpus Christi marketing areas (Parts 1126, 1121, 1127, 1128, 1129, and 1130, respectively) shall be amended and merged into one order. Parts 1121, 1127, 1128, 1129, and 1130 are thereby superseded, and such vacated part designations shall be reserved for future assignment. The handling of milk in the merged marketing area, to be designated as the "Texas Marketing Area" (Part 1126), shall be in conformity to and in compliance with the terms and conditions of the following attached order:

The provisions of the proposed marketing agreement and order amending and merging the aforesaid orders, as contained in the recommended decision issued by the Acting Administrator on November 27, 1974, and published in the FEDERAL REGISTER on December 9, 1974 (39 FR 43000; FR Doc. 74-28295), shall be and are the terms and provisions of this order and are set forth in full herein, subject to the following modifications:

Changes are made in §§ 1126.7 (c) and (d) (1), 1126.8 (c), 1126.12 (b) (5), 1126.13 (c), 1126.42 (e), 1126.43 (introductory paragraph), 1126.43 (a), 1126.44 (introductory paragraph), 1126.44 (a) (9), 1126.52 (a) and (b) (1), 1126.60 (a), (c), and (g), 1126.70, 1126.71, 1126.73, 1126.75 (a), 1126.76 (b) (iii) (introductory paragraph), 1126.78 (introductory paragraph), 1126.85 (introductory paragraph), and 1126.85 (a).

PART 1126—MILK IN THE TEXAS MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

§ 1126.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1126.2 Texas marketing area.

The "Texas marketing area," herein after called the "marketing area," means all territory within the boundaries of the following Texas counties, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

ZONE 1

Camp.
Collin.
Cooke.
Dallas.
Delta.
Denton.
Ellis.
Fannin.
Franklin.
Grayson.
Hill (Blum and Itasca divisions only).
Hood.
Hopkins.
Hunt.

Johnson.
Kaufman.
Lamar.
Morris.
Parker.
Rains.
Red River.
Rockwall.
Somervell.
Tarrant.
Titus.
Upshur.
Van Zandt.
Wise.
Wood.

ZONE 2

Gregg.
Harrison.
Marion.

Panola.
Rusk.
Smith.

ZONE 3

Anderson.
Bell.
Bosque.
Cherokee.
Comanche.
Coryell.
Erath.
Falls.
Freestone.
Hamilton.

Henderson.
Hill (except Blum and Itasca divisions).
Lampasas.
Limestone.
McLennan.
Mills.
Navarro.

ZONE 4

Angelina.
Houston.
Jasper.
Leon.
Nacogdoches.
Newton.

Polk.
Sabine.
San Augustine.
Shelby.
Trinity.
Tyler.

ZONE 5

Brazos.
Robertson.
Burleson.
Grimes.

Madison.
Milam.
Walker.

ZONE 6

Andrews.
Borden.
Brown.
Callahan.
Coke.
Coleman.
Dawson.
Eastland.
Ector.
Fisher.
Foard.
Glasscock.
Haskell.
Howard.
Jack.
Jones.
Kent.

King.
Knox.
Martin.
Midland.
Mitchell.
Nolan.
Palo Pinto.
Runnels.
Scurry.
Shackelford.
Stephens.
Sterling.
Stonewall.
Taylor.
Throckmorton.
Tom Green.
Young.

ZONE 7

Bastrop.
Burnet.
Lee.

Travis.
Williamson.

ZONE 8

Austin.
Brazoria.
Chambers.
Colorado.
Payette.
Fort Bend.
Galveston.
Hardin.

Harris.
Jefferson.
Liberty.
Montgomery.
Orange.
San Jacinto.
Waller.
Washington.

ZONE 9

Bexar.
Caldwell.
Comal.
De Witt.
Gonzales.
Guadalupe.

Hays.
Jackson.
Lavaca.
Matagorda.
Wharton.
Wilson.

ZONE 10

Aransas.
Bee.
Calhoun.
Goliad.

Karnes.
Live Oak.
Refugio.
Victoria.

ZONE 11

Brooks.
Duval.
Jim Wells.
Kenedy.

Kleberg.
Nueces.
San Patricio.

ZONE 12

Cameron.
Hidalgo.

Willacy.

§ 1126.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of a fluid milk product classified as Class I milk, other than a delivery to a plant.

§ 1126.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities without stationary storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1126.5 [Reserved]

§ 1126.6 [Reserved]

§ 1126.7 Pool plant.

Except as provided in paragraph (f) of this section, "pool plant" means:

(a) Any plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant. If two plants operated by the same handler each meet the performance requirement of paragraph (a) (1) of this section and such handler requests that the two

plants be considered together for the purpose of meeting the total route disposition requirement, each such plant shall be deemed to have met the total disposition requirement of this subparagraph if the combined route disposition, except filled milk, of such plants is 50 percent or more of the combined receipts of Grade A fluid milk products at such plants, including producer milk diverted from the plants.

(b) Any plant, other than a plant described in paragraph (a) of this section, that is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area and from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section, except that such percentage shall be 15 percent for the months of:

(1) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(2) December, if the plant was a pool plant under this paragraph during the immediately preceding month of November.

(c) Any plant, other than a plant described in paragraph (a) or (b) of this section or that qualifies as a pool plant under another Federal order, from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section and distributing plants fully regulated under other Federal orders, if the total quality so transferred to pool plants exceeds in the case of each other order the total quantity so transferred to other order distributing plants, except that:

(1) For the following months, such percentage shall be 15 percent and shall apply only to transfers to pool plants described in paragraph (a) of this section:

(i) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(ii) December, if the plant was a pool plant under this paragraph during the immediately preceding month of November; and

(2) Such plant shall not be a pool plant under this paragraph in any of the months of February through July unless it was a pool plant under this paragraph in three or more of the immediately preceding months of September through January.

(d) Any plant during the months of February through July, other than a plant described in paragraph (a) of this section, that was a pool plant under

paragraph (b) or (c) of this section during each of the immediately preceding months of September through January and is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area, subject to the following conditions:

(1) For the months of February through July 1975, the required qualification under paragraph (b) of this section in prior months shall be deemed to have been met if the plant was a pool supply plant under the Austin-Waco, West Texas, Corpus Christi, North Texas, San Antonio, or South Texas orders (or any combination thereof) during the months of September, October, and November 1974; and

(2) If the plant operator files with the market administrator prior to any of the months of February through July a written request for nonpool status, a plant shall not be a pool plant under this paragraph during any of such remaining months through July.

(e) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c) and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b), (c) or (d) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area.

(f) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;
(2) A governmental agency plant;
(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route

disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) or (c) of this section which has automatic pooling status under another Federal order.

§ 1126.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a governmental agency plant, or a producer-handler plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is not an other order plant, a governmental agency plant, or a producer-handler plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1126.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant of another handler in accordance with § 1126.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1126.7(f).

§ 1126.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Whose receipts of fluid milk products during the month from pool plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds;

(d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production or pool plants; and

(e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1126.11 [Reserved]

§ 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1126.9(c); or

(3) Diverted from a pool plant in accordance with § 1126.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency that operates a plant exempt pursuant to § 1126.8(e);

(3) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1126.44(a)(8)(iii) and the corresponding step of § 1126.44(b);

(4) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preced-

ing period of September through November milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of Grade A approval or the application of § 1126.13(e)(4) and (5)), unless such pool plant was a nonpool plant during any of such immediately preceding months: *Provided*, That from the effective date of this merged order through July 1975 the month immediately preceding such effective date shall be used rather than the months of September through November.

§ 1126.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1126.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1126.9(c), is the handler for such milk;

(d) Diverted from a pool plant described in § 1126.7(a) for the account of the handler operating such plant to a pool plant described in § 1126.7(b), (c), (d) or (e), except that milk diverted to a plant operated by a cooperative association may not be milk of the cooperative association's members. Milk so diverted shall be priced at the plant to which diverted; or

(e) Diverted from a pool plant described in § 1126.7(a), (b), (c), and (d) to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant under this order or the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio, or South Texas orders and the dairy farmer has continuously retained producer status under any of such orders since that time. If a dairy farmer loses his producer status under this order (except as a result of a temporary loss of Grade A approval), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted during the month by a coopera-

tive association shall not exceed one-third of the producer milk that the cooperative association causes to be delivered during the month to pool plants described in § 1126.7(a), (b), (c), and (d) and that is physically received thereat;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (e)(2) of this section. The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) and (3) of this section shall not be producer milk. If the diverting handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler during the month to a nonpool plant shall be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1126.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1126.40(b)(1) from any source other than producers, handlers described in § 1126.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1126.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1126.40(b)(1)) for which the handler fails to establish a disposition.

§ 1126.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1126.40 (b) or (c)(1) (i) through

(viii) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1126.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1126.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1126.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 1126.19 Current marketing period.

For the purpose of terminating this order under § 608c(16)(B) of the Act, the term "current marketing period" shall mean the first month following the date on which the Secretary publicly announces his finding that the termination of the order is favored by such majority of producers under the order as is prescribed by the Act.

HANDLER REPORTS

§ 1126.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1126.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1126.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1126.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of producer milk; and

(2) The utilization or disposition of such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who elects pursuant to § 1126.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1126.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundred-weight and the net amount paid each dairy farmer.

§ 1126.32 Other reports.

(a) On or before the 24th day of each month, each handler described in § 1126.9(a), (b), and (c), except a cooperative association with respect to producer milk for which it elects to collect payments, shall report to the market administrator the following information with respect to its receipts of milk during the first 18 days of the month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 6th day after the end of each month, each handler described in § 1126.9(a), (b), and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer and its average butterfat content;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and §§ 1126.30 and 1126.31, each handler shall report such other information as the market administrator deems necessary to verify or establish

such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified

in paragraph (b) (1) of this section in bulk form:

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

(6) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a) (2) and in shrinkage specified in § 1126.41(b) and (c).

§ 1126.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat;

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the

plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1126.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or diverte-plant after the computations pursuant to § 1126.44 (a) (12) and the corresponding step of § 1126.44 (b);

(2) If the transferor-plant or diverte-plant received during the month other source milk to be allocated pursuant to § 1126.44 (a) (7) or the corresponding step of § 1126.44 (b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or diverte-handler received during the month other source milk to be allocated pursuant to § 1126.44 (a) (11) or (12) or the corresponding steps of § 1126.44 (b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or diverte-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1126.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or

transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to Class II utilization, and then to Class I utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1126.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1126.9(c) to another handler's pool plant shall be classified pursuant to § 1126.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1126.43 General classification rules.

In determining the classification of producer milk, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30 and shall compute

separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1126.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1126.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1126.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1126.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1126.9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1126.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1126.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1126.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section

which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1126.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and

Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk;

(a) The estimated utilization of skim milk of all handlers in each class as an-

nounced for the month pursuant to § 1126.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1126.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1126.9(c), subtract such excess from the pounds of skim milk remaining in

each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1126.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1126.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1126.44 (a) (12) and the corresponding step of § 1126.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1126.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.32.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1126.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

§ 1126.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1126.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1126.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (7) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1126.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1.....	No adjustment.
Zone 2.....	Plus 6 cents.
Zone 3.....	Plus 15 cents.
Zone 4.....	Plus 18 cents.
Zone 5.....	Plus 20 cents.
Zone 6.....	Plus 25 cents.
Zone 7.....	Plus 30 cents.
Zone 8.....	Plus 36 cents.
Zone 9.....	Plus 42 cents.
Zone 10.....	Plus 53 cents.
Zone 11.....	Plus 66 cents.
Zone 12.....	Plus 75 cents.

(2) For a plant located in any of the following Texas counties, the adjustment shall be as follows:

(i) Plus 10 cents.

Bailey.	Hale.
Castro.	Hockley.
Cochran.	Lamb.
Cottle.	Lubbock.
Crosby.	Lynn.
Dickens.	Motley.
Floyd.	Parmer.
Gaines.	Terry.
Garza.	Yoakum.

(ii) Minus 7 cents.

Armstrong.	Hemphill.
Briscoe.	Hutchinson.
Carson.	Lipscomb.
Childress.	Moore.
Collingsworth.	Ochiltree.
Dallam.	Oldham.
Deaf Smith.	Potter.
Donley.	Randall.
Gray.	Roberts.
Hall.	Sherman.
Hansford.	Swisher.
Hartley.	Wheeler.

(iii) Minus 12 cents.

Archer.	Montague.
Baylor.	Wichita.
Clay.	Wilbarger.
Hardeman.	

(3) For a plant located in any of the following Oklahoma counties, the adjustment shall be as follows:

(i) Minus 24 cents.

Comanche.	Stephens.
Cotton.	Tillman.
Jefferson.	

(ii) Minus 27 cents.

Carter.	Marshall.
Love.	

(iii) Minus 28 cents.

Beckham.	Harmon.
Greer.	Jackson.

(iv) Minus 34 cents.

Caddo.	McClain.
Canadian.	Murray.
Cleveland.	Oklahoma.
Garvin.	Pontotoc.
Grady.	Pottawatomie.
Johnston.	Seminole.
Kiowa.	Washita.

(v) Minus 44 cents.

Alfalfa.	Mayes.
Beaver.	Noble.
Bisbee.	Nowata.
Cimarron.	Okfuskee.
Craig.	Okmulgee.
Creek.	Osage.
Custer.	Ottawa.
Delaware.	Payne.
Dewey.	Pawnee.
Ellis.	Roger Mills.
Garfield.	Rogers.
Grant.	Texas.
Harper.	Tulsa.
Kay.	Wagoner.
Kingfisher.	Washington.
Lincoln.	Woods.
Logan.	Woodward.
Major.	

(4) For a plant located in Bowie or Cass County, Texas, or in Little River or Miller County, Arkansas, the adjustment shall be minus 9 cents;

(5) For a plant located in the States of Louisiana or New Mexico or in El Paso County, Texas, no adjustment shall apply;

(6) For a plant located in the State of Texas but outside any area described in paragraph (a) (1) through (5) of this section, the adjustment shall be the adjustment applicable at Corpus Christi, Midland, San Angelo, or San Antonio, Texas, whichever city is nearest; and

(7) For a plant located outside the areas described in paragraph (a) (1) through (6) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the Dallas, Texas, city hall, such distance to be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant

subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1126.44(a) (12) an amount equal to:

(i) 95 percent of the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1126.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b) (2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b) (3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1126.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b) (3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b) (3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the

following month and the Class II and Class III prices for the preceding month.

§ 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1126.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1126.9(c) that were classified in each class pursuant to §§ 1126.43 (a) and 1126.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a) (14) and the corresponding step of § 1126.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44 (a) (9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a) (7) (i) through (iv) and (vii) and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a) (7) (v) and (vi) and the corresponding step of § 1126.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to

§ 1126.44(a)(11) and the corresponding step of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1126.9(c) the amount obtained from multiplying the Class III price for the preceding month, as adjusted by the butterfat differential specified in § 1126.74, by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month.

§ 1126.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1126.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1126.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit the payments made by handlers pursuant to §§ 1126.71, 1126.76, and 1126.77 and from which he shall make all payments pursuant to

§§ 1126.73 (a) through (f) and 1126.77, except that payments to a cooperative association pursuant to § 1126.73(c) shall be offset by any payments due from such cooperative association pursuant to § 1126.1 that have not been received by the market administrator.

§ 1126.71 Payments to the producer-settlement fund.

(a) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 26th day of each month an amount determined by multiplying the handlers receipts during the first 18 days of such month of producer milk (excluding, in the case of a handler described in § 1126.9(c), producer milk delivered to a pool plant) and milk from a handler described in § 1126.9(c) by the Class III price for the preceding month, less:

(1) Payments made by the handler on or before such date to producers for milk received during the 18-day period; and

(2) Proper deductions authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value (at the Class III price) of the milk received from the producer during the 18-day period.

(b) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 16th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1126.60(a), as adjusted by the butterfat differential specified in § 1126.74, and pursuant to § 1126.60(b) through (g), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month;

(2) Payments, other than those specified in § 1126.73(d), that were made by the handler on or before such date to producers for milk received during such month;

(3) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value of the milk received from the producer during the month; and

(4) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value was computed pursuant to § 1126.60(f).

(c) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) and (b) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or on any Monday that is a national holiday, payments shall not be due until the next day on which the market admin-

istrator's office is open for public business.

(d) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1126.73(c).

(e) On or before the 25th day after the end of the month, each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (e) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1126.72 [Reserved]

§ 1126.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 28th day of each month for milk for which payment pursuant to § 1126.71 (a) has been received by the market administrator. Such payment shall be at a rate per hundredweight equal to the Class III price for the preceding month less the amounts specified in § 1126.71(a) (1) and (2).

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 18th day after the end of each month for milk for which payment pursuant to § 1126.71(b) has been received by the market administrator or offset pursuant to § 1126.71(d). Such payment shall be at the uniform price computed pursuant to § 1126.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1126.74 and 1126.75;

(2) Less the payments described in § 1126.71(b) (2) and paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1126.86;

(4) Less the authorized deductions specified in § 1126.71(b) (3); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator,

on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(e) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (d) of this section:

(1) If the date by which such payments are to be made falls on a Saturday or Sunday or on any Monday that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1126.71(c) or paragraph (e) (1) of this section results in a delay in the partial or final payments by handlers to the market administrator or by the market administrator to handlers, the corresponding partial or final payments prescribed in paragraphs (a) through (d) of this section may be delayed by the same number of days.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1126.71, he shall reduce uniformly per hundredweight the payments due producers for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

(g) Subject to § 1126.71(c) (1) and (2), each handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall pay the following amounts for such milk to the market administrator, who in turn shall transmit such money to the cooperative association:

(1) On or before the 26th day of each month, an amount determined by multiplying such receipts during the first 18 days of the month by the Class III price for the preceding month, as adjusted by the butterfat differential specified in § 1126.74 for the preceding month; and

(2) On or before the 16th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1126.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1126.74, less any payment made by the handler pursuant to paragraph (g) (1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the higher of the Class I prices applicable at the transferee-plant and the transferor-plant.

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price computed pursuant to § 1126.61 for the month shall be adjusted by the amounts set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the uniform price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1126.30(b) and 1126.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1126.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from

the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk specified in § 1126.71(b) (4), a value of milk determined pursuant to § 1126.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1126.7(b) and the corresponding provisions of § 1126.7(d), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30(b) and 1126.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1126.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by

the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

§ 1126.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next day for making payment set forth in the provision under which such error occurred. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler.

§ 1126.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.73(g), 1126.76, 1126.77, or 1126.85 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1126.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1126.9(c) that were delivered to pool

plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a) (7) and (11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1126.76 (a) (2).

§ 1126.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1126.73, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. The monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 18th day after the end of each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1126.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b) (1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one Agency representative for each full 5 percent of the participating member producers it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one Agency representative. For the purpose of determining the Agency's composition, all producers who have not requested refunds for the most recent calendar quarter under any order shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the Agency representatives.

§ 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating

in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110.

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

§ 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quar-

ter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1126.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved.

§ 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program, including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such

producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b) (2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.70.

§ 1126.123 Initial operating procedures under merger of orders.

Notwithstanding the provisions of §§ 1126.110 through 1126.122, the following procedures shall apply during the initial operation of the advertising and promotion program under this order amending and merging the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio, and South Texas orders:

(a) During the first month in which this merged order is effective, the Agencies previously established under the advertising and promotion programs of the six above-listed orders shall continue to function as separate Agencies under this merged order. Such individual Agencies shall operate in accordance with the provisions of §§ 1126.110 through 1126.122, but subject to the following conditions:

(1) The composition of the Agencies as constituted under the six respective orders shall remain unchanged. Members serving on the respective Agencies immediately prior to the effective date

of this amending order shall continue to serve on such Agencies except for any replacement of members in accordance with § 1126.113 (a) and (c) (2);

(2) The activities of the Agencies shall be limited to those programs set forth in § 1126.110 for which budgets have been approved by the Secretary and for which financial commitments were made prior to the effective date of this amending order; and

(3) The term of office of each member of each Agency shall expire at the end of the first month in which this merged order is effective;

(b) Within 30 days after the effective date of this amending order, a new single Agency shall be formed in accordance with §§ 1126.111 and 1126.113. Such Agency shall first become operative at the beginning of the second month in which this merged order is effective and at that time shall assume all advertising and promotion funds and obligations of the six individual Agencies provided for in paragraph (a) of this section;

(c) During the first month in which this merged order is effective, the monies set aside by the market administrator for advertising and promotion from proceeds of producer milk pooled in the preceding month under each of the six above-listed orders shall be disbursed to the respective Agencies provided for in paragraph (a) of this section;

(d) In making refunds of advertising and promotion assessments pursuant to § 1126.121(b) (3), the market administrator shall honor all valid refund requests filed under the advertising and promotion programs of the six above-listed orders;

(e) Any dairy farmer who filed a valid request for refund of advertising and promotion assessments under any of the six above-listed orders for the calendar quarter in which this merged order became effective shall be eligible without refiling for refund of assessments on his producer milk under this merged order during such quarter; and

(f) Any producer who elected to participate in the advertising and promotion program of any of the six above-listed orders for the calendar quarter in which this merged order became effective shall not be eligible to request a refund of the assessments against his deliveries of producer milk under the merged order until the next quarterly filing period.

[FR Doc. 75-11943 Filed 5-6-75; 8:45 am]